



Frontiers, Ruwad Association is a Lebanese non-profit independent organization providing professional, sustainable assistance to marginalized people to assist them to understand and access their rights.

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VIOLATION OF THE PRINCIPLE OF THE RIGHT TO SEEK ASYLUM AND NON-REFOULEMENT

**SUBMISSION ON THE OCCASION OF THE SECOND CYCLE
OF THE UNIVERSAL PERIODIC REVIEW 2015**

LEBANON
23 March 2015

A. SCOPE OF INTERNATIONAL OBLIGATIONS

A.

1. Lebanon is not a signatory to the 1951 Refugee Convention and its 1967 Protocol. However, Lebanon is bound by the customary ~~law of the~~ principle of ~~non-~~refoulement.
2. Lebanon is party to all six-core human rights instruments that guarantee the right to seek asylum.

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B. CONSTITUTIONAL AND LEGISLATIVE FRAMEWORK

B.

3. The right to seek asylum, though not spelled out and there is no related specific section in the Lebanese Constitution, has acquired the force of constitutional norms because of the integration of human rights conventions in its Preamble.¹ The preamble of the Constitution explicitly refers to the Universal Declaration of Human Rights that guarantees the right of every person to seek asylum from persecution.
4. Yet, Lebanon has not taken any steps to bring its national laws in conformity with its constitutional principles and international obligations.
5. Lebanon lacks a comprehensive or adequate national refugee legal framework. The Law of 1962 Regulating the Entry, Stay and Exit from Lebanon (Law of Entry and Exit) contains only six articles related to asylum seeking. These provisions fall short of international standards. The refugee definition is narrow to only political grounds; and there is no special official body to determine refugee status, but rather the adjudicating body of asylum claims is an inter-ministerial committee that is created on an *ad hoc* basis. In reality, these provisions are dead letters and were rarely invoked in Lebanese history.
6. Today, the only framework that regulates asylum seekers, at least on paper, is the 2003 Memorandum of Understanding (MoU) signed between UNHCR and the Lebanese authorities.

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¹ Para (b) of the Lebanese Constitution states that Lebanon is "Arab in its identity and in its association. It is a founding and active member of the League of Arab States and abides by its pacts and covenants. Lebanon is also a founding and active member of the United Nations Organization and abides by its covenants and by the Universal Declaration of Human Rights. The Government shall embody these principles in all fields and areas without exception." Lebanese Constitution, issued on 23 May 1926, and all amendments, available at <http://www.lp.gov.lb/doustour/default.htm>;

See Constitutional Council, Decision 2/2001, dated 10 May 2001, considering that the Constitution's preamble has the same force as the whole Constitution. Available in Arabic at <http://www.conseil-constitutionnel.gov.lb/ar/arabic/arrets.htm>

7. The MoU falls short of providing adequate protection to refugees and asylum-seekers. Most notably, it stipulates that Lebanon is not an asylum country and that the term “asylum-seeker” is defined as a person seeking asylum to be resettled in a 3rd country.
8. Mass influx of refugees and prima facie status do not fall under the MoU.
9. According to this MoU, UNHCR is in charge of adjudicating asylum applications and granting refugee status in Lebanon for a temporary period not exceeding one year.
10. It does not explicitly recognize the principle of *non-refoulement*, though it implicitly state that it respects it during the one year period from the date of application for asylum before UNHCR to the date of decision, and if positive , to the expiry of the one year term. If the refugee is not resettled during the one year period, he or she may be under the threat of being deported to his/her country of origin.
11. The MoU grants refugees registered with UNHCR the right to a temporary circulation permit (maximum 12 months) during which UNHCR is expected to resettle them to a third country. However, the circulation permits are not issued systematically and on time.
12. Moreover, the MoU states that UNHCR is responsible for providing relief and socio-economic assistance to the persons of its concerns.
13. In recent years, there were attempts to renegotiate the MOU, but apparently, the Lebanese General Security (GS) has categorically refused to accommodate any of the terms.-
14. Since 2010, UNHCR has been also attempting to negotiate for amendment of the Law of Entry and Exit of 1962 to exempt refugees and asylum seeker from the crime of illegal entry, which is punishable by prison term and deportation. UNHCR has failed to reach this objective.

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C. INSTITUTIONAL AND HUMAN RIGHTS INFRASTRUCTURE

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15. There is no institutional and human rights infrastructure dealing with refugee and asylum seeking issues.

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16. However, recently, the Ministry of Social Affairs (MoSA) has been assigned to be involved in screening incoming Syrian refugees and decide whether they meet the humanitarian criteria for entry to Lebanon. However, neither the policy nor the details of the procedures are made public. It is feared that MoSA lacking the proper and adequate training on refugee status determination will fail in its mission and may lead to refoulement of genuine asylum seekers.
17. In 2005, the Lebanese Parliamentary Human Right Committee launched the process to set up a national human rights action plan. Background paper on protection of refugees was submitted in 2006. The action plan was adopted in 2012 but so far the government has not yet endorse it.

D. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

Right to seek asylum

18. Compared to its size and population, Lebanon – a country with internal tensions and fragile infrastructure – is now the highest per capita refugee hosting country in the world. It hosts over 1.5 million Syrians refugees, 400,000 registered Palestinian refugees, and an estimation of 40,000 refugees from Iraq, Sudan, and other countries.
19. Violations of fundamental human rights affecting refugees and asylum seekers – most notably their right to seek asylum, and to liberty and security occur at the level of legislation, regulations, policies and practices.
20. With the exception of the 1948 registered Palestinian refugees, non-Palestinian refugees and Palestinians not registered suffer from the lack of any functioning domestic legal framework guaranteeing their right to seek asylum, and to protection from *refoulement*, and the enjoyment of basic and fundamental rights as stipulated in internationally recognized refugee and human rights standards.
21. As a result, some asylum-seekers, such as those arrested at border entry points are deported without having the opportunity to seek asylum with UNHCR.
- ~~20-22.~~ In addition, detained migrants who express their wish to seek asylum do not have systematic access to UNHCR.
23. Lebanon regularly denies entry to asylum seekers. Many of them are thus forced to resort to being smuggled into Lebanon in unsafe conditions. Those who enter legally on tourist visas (and not as asylum seekers) and apply before UNHCR for asylum later face difficulties renewing their visa and become ‘illegal’.

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~~24.~~ Only asylum seekers and refugee that fall under the 2003 MoU are granted the right to a temporary circulation permit (maximum 12 months) during which period UNHCR is expected to resettle them to a third country. However, the circulation permits are not issued in a systematic manner nor always on time.

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~~22-25.~~ Refugees recognized by UNHCR outside the MoU, such as on the *prima facie* or on complementary and temporary protection basis, are not granted legal temporary presence in Lebanon. Hence, they are treated as illegal migrants and do not benefit from being “legal” even for a short period of time.

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~~23-26.~~ Exception to this policy is the Syrian refugees. When the Syrian conflict started in 2011 hundreds of thousands of Syrians were allowed safe admission -without any distinction between those seeking asylum and those who are able to return to Syria.

~~24-27.~~ However, the positive policy towards Syrian refugees started to change with the ongoing and -increasing mass influx of Syrian refugees. Lebanon has decided to have a mechanism to receive asylum applications at the Lebanese borders to screen those who can enter and who can be refused entry. A reception center was established in December 2012 at the official border of Masha'a and, since in late 2014, the government started introducing more restrictions on the admission of Syrians, setting conditions and categories and allowing entry refugees on humanitarian grounds only. The government justified this move by the pressure the Syrian influx is posing on the Lebanese economy and infrastructure. However, there was no definition of such ground.

28. Since the introduction of these restrictive criteria for the admission of Syrian nationals to Lebanon in the end of 2014, many Syrian nationals have been rejected at the borders and denied entry or re-entry to Lebanon, including Syrians who wish to seek asylum in Lebanon and Syrians who are registered with UNHCR in Lebanon.

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29. The right to enter Lebanon is restricted for Palestinian refugees registered in Syria despite the danger they are facing in Syria. They also face difficulties to renew their legal residence in Lebanon, forcing many of them to become illegal residents.

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~~26-30.~~ Lebanon has been restricting the re-entry of Palestine Refugees from Syria, and prevent refugees who have travelled back to Syria, regardless of the reason for which they returned to their country.

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Right to liberty

~~27-31.~~ Arrest and prosecution on ground of illegal entry or illegal stay ~~are~~ systematically used against asylum seekers and refugees.

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~~28-32.~~ Illegal entry and stay are crimes punishable by prison terms, a fine, and deportation.

~~29-33.~~ Following the Syrian refugee influx, prosecutors have generally refrained from prosecuting Syrian nationals solely for their illegal entry or stay in Lebanon. However, this *de facto* policy did not translate into clear regulations that could protect refugees against the criminalization of their irregular movement or residency.

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~~30-34.~~ Prolonged arbitrary detention after the expiry of judicially imposed sentences ~~or~~ just upon arrest by the police have long been among the worst problems confronting refugees, asylum-seekers and all other migrants in Lebanon.

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~~35.~~ Prolonged arbitrary detention takes place under the authority of the General Security, the effective immigration authority ~~that decides deciding~~ the -release or deportation of all ~~migrants-foreigners~~. Migrants including asylum seekers and refugees ~~are detained for indefinite periods at the General Security police station~~, even if a court has acquitted them, ordered their immediate release or did not pass a sentence of deportation. ~~The duration of detention is unlimited and does not appear to be subject to judicial review. The General Security has also used safe houses run by charity organizations as holding facilities for illegally detained migrants.~~

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~~31.~~

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~~32-36.~~ The practice of arbitrary detention of refugees and asylum-seekers aims to coerce them to agree to “voluntary return” to their country of origin or to pressure UNHCR to process refugees for resettlement in a third country.

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~~33-37.~~ The UN Working Group on Arbitrary Detention in a number of opinion considered Lebanon to practice arbitrary detention in violation of national and international standards.

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~~34-38.~~ The Lebanese courts ruled in ~~at least more than~~ 18 refugee cases that Lebanon’s is guilty of practicing arbitrary detention. The courts continue today to declare the continuation of the detention of refugees by the General Security apparatus as an illegal act, in violation of individual freedom. The rulings ordered

the Lebanese State to put an end to this abuse and to ensure the immediate release of the detainees.

~~35-39.~~ Yet, the practice of prolonged arbitrary detention is, in general, not used against Syrian nationals, including those registered with UNHCR, who were generally released after short periods of administrative detention.

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Right to non-refoulement, life & security

~~36-40.~~ Refugees and asylum seekers, including those holding refugee and/or asylum seeker certificates issued by UNHCR, are at risk of ~~being~~ deportationed, thus putting their life at risk.

~~37-41.~~ These deportations take the form of “voluntary return”, with refugees required to sign their deportation orders. Considering they are in detention and are not given the right to chose, the refugee’s signature cannot be considered voluntary. This is de facto *refoulement*.

~~38-42.~~ The Lebanese General Security may issue an administrative order to deport a foreigner only when he/she poses a threat to national security, in which case the General Security can detain the person, with the approval of the General Prosecutor, until the deportation is completed. ~~The duration of detention is unlimited and does not appear to be subject to judicial review.~~ Furthermore, “Threat to National Security” is not ~~well-defined and is subject to the GS discretionary interpretation.~~

~~39-43.~~ A 2006 Ministry of Justice Advisory Memorandum (AM) reminded the judiciary not to sentence refugees recognized by the UNHCR to deportation based on Art. 3 of the Convention against Torture (CAT). More courts are applying the provision of this AM. However, it appears to be applied only when the defendant refugee has the opportunity to have legal counsel to present this argument before a judge.

~~40-44.~~ Exception, are the Syrians. Deportation orders – sometimes solely for the ‘crime’ of illegal entry or stay – continue to be issued against Syrian refugees who are requested to exit Lebanon by their own means within short delays; however, these orders are not executed by force. In practice the moratorium on deportation of Syrians appears to have been upheld by the Lebanese authorities. Nonetheless, Syrian refugees who are the subject of deportation orders can no longer renew their residence permits and are forced to remain in Lebanon illegally in violation of the deportation orders. ~~Exception are the Syrians. Deportation orders – sometimes solely for the ‘crime’ of illegal entry or stay – are, however, not being implemented and in~~

~~practice the moratorium on deportation of Syrians appears to have been upheld by the Lebanese authorities.~~

Right to remedy

~~41-45.~~ Lebanese laws allow for remedies for those who have experienced arbitrary detention, creating actionable rights and clear civil and criminal penalties, such as imprisonment for officers who detain people illegally or beyond the judicial sentence. Lawyers rarely, if ever, pursue cases of arbitrary detention based on these provisions. However, even when arbitrary detention is challenged before the judiciary or the administration, these challenges are either ignored or do not necessarily result in putting an end to the unlawful detention. In practice, the General Security has acquired wide and discretionary power in handling matters related to foreigners without any judicial overview.

~~42-46.~~ The Lebanese Government is not holding those responsible practicing arbitrary detention. As such, it is ignoring its national and international human rights obligations, particularly the respect the rule of law and individual liberty and security, and the right to remedy.

E. RECOMMENDATIONS

~~E.~~

~~43-47.~~ In the long term, Lebanon must establish a comprehensive refugee and asylum seeking legal framework in line with international standards.

~~44-~~ In the immediate term, ~~Lebanon must put in place policies allowing refugees access to livelihoods and to participate and contribute to the local economy.~~

~~45-48.~~ Lebanon must respect the principle of non-refoulement to all asylum seekers without any discrimination on ground of race, religions, gender, nationality, or political affiliation. ~~This includes rejection at the border, forced deportation and measures requesting refugees and asylum-seekers to exit Lebanon.~~

~~49.~~ Lebanon should continue its close cooperation with UNHCR. UNHCR should particularly continue to monitor the right to seek asylum until all necessary safeguards are in place to ensure that international refugee protection principles are fully respected.

~~46-~~

~~47-~~ Lebanon should immediately amend the law of 1962 regulating entry, residence and exit, ~~and to decriminalize the act of abolish the crime of illegal entry or stay as a crime punishable by prison term and deportation.~~

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~~48-51.~~ Lebanon should immediately take all the necessary steps to put an end to the practice of arbitrary detention in all of detention and alternative places of detention such as safe houses run by the private sector.

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~~49-52.~~ Lebanon should conduct a public investigation into the practices of prolonged arbitrary detention and *refoulement* and bring those responsible for these practices to justice, in order to put an end to the pattern of impunity for human rights violations and to provide remedies to victims.

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~~53.~~ Lebanon should grant refugees and asylum seekers legal residency status on the basis of their UNHCR registration status.

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~~54.~~ Lebanon must put in place policies allowing refugees access to livelihoods and to participate and contribute to the local economy.

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