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## “There is a Price to Pay”

The Criminalization of Peaceful Speech in Lebanon



# **“There Is a Price to Pay”**

The Criminalization of Peaceful Speech in Lebanon

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# “There Is a Price to Pay”

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## Summary

“This free speech that we enjoyed for a while is over, and we are now back to the pre-2005 era. Only, instead of the Syrian army, we have the Lebanese state.”

Hanin Ghaddar, Lebanese journalist.

In recent years, Lebanon’s criminal defamation laws have been used against journalists, activists, and other citizens who have written about corruption by public officials, reported misconduct by security agencies, criticized the current political and economic situation, or exposed abuse against vulnerable populations.

Although Lebanon is perceived to be one of the Arab world’s freest countries, over the past few years, the country has witnessed an alarming increase in attacks on peaceful speech and expression. This has coincided with expressions of popular disillusionment with corruption, the mismanagement of public funds, and a worsening economic situation. Powerful political and religious national figures have instrumentalized the country’s criminal defamation and insult laws to silence nonviolent criticism, especially against those leveling accusations of misconduct or corruption.

Lebanon’s constitution guarantees freedom of expression “within the limits established by law,” and Article 19 of the International Covenant on Civil and Political Rights (ICCPR), which Lebanon ratified in 1972, provides that “everyone shall have the right to freedom of expression.”

However, the Lebanese penal code criminalizes defamation against public officials and authorizes imprisonment for up to one year in such cases. It also authorizes imprisonment for up to two years for insulting the president, flag, or national emblem. The military code of justice prohibits insulting the flag or army, an offense punishable by up to three years in prison. Other laws outlaw speech deemed insulting to religion or speech that incites sectarianism.

Although these Ottoman and French laws have been on the books since the early 20<sup>th</sup> century, evidence reviewed by Human Rights Watch shows an exponential increase in their

use, particularly targeting online speech. Established in 2006, between January 2015 and May 2019, the Anti-Cybercrime and Intellectual Property Rights Bureau (Cybercrimes Bureau) – the unit within the Internal Security Forces specialized in combatting cybercrime and enhancing online security – investigated 3,599 cases relating to defamation, libel, and slander. In 2015, the bureau investigated 341 such cases. The number increased to 755 the following year, and 800 the year after. In 2018, however, the bureau investigated 1,451 defamation cases – an increase of 81 percent from the previous year and 325 percent from 2015. The sharp increase in 2018 appears to be related to attempts to control critical speech ahead of the May parliamentary elections. In 2019, as of May 15, 252 defamation cases were referred to the Cybercrimes Bureau for investigation.

The criminal courts have issued prison sentences against at least three individuals in defamation cases between 2015 and 2019. One of those individuals received 9 prison sentences in absentia in 9 different criminal cases filed against him by the same politician. The Publications Court has issued at least one in absentia prison sentence between 2015 and 2019. During the same period, the military courts have issued three in absentia prison sentences, two of which were revoked on appeal after the military courts declared a lack of jurisdiction.

The cases investigated by Human Rights Watch show that the laws have been used to silence speech that is not only legitimate, but necessary for the functioning of a vibrant society governed by the rule of law.

For example, Michel Kanbour, a Lebanese journalist and founder of the online newspaper *Lebanon Debate*, told Human Rights Watch that public officials had sued him for defamation around 20 times since 2015, the majority resulting from his reporting on corruption and misconduct by public officials. In March 2018, the Publications Court sentenced Kanbour to six-months imprisonment and a fine of 10 million Lebanese pounds (\$US6,667) in absentia for accusing the Director General of a state institution of corruption. “In 2019, it is a disgrace that our judges issue rulings for imprisoning journalists,” Kanbour said. “The only reason that can justify imprisoning a journalist is inciting violence. Supposedly insulting someone shouldn’t.”

In another infamous case, on January 10, 2018, the Military Tribunal sentenced Lebanese journalist and researcher Hanin Ghaddar in absentia to six-months imprisonment for

criticizing the Lebanese army in comments she made during a conference in Washington, DC. Although the Military Tribunal dropped its verdict against Ghaddar and referred her case to the Publications Court on April 10, 2018, citing a lack of jurisdiction, Ghaddar stated that the message was clear: “This free speech that we enjoyed for a while is over, and we are now back to the pre-2005 era. Only, instead of the Syrian army, we have the Lebanese state.” The Military Prosecutor initiated cases against at least 17 other journalists between October 2016 and September 2019.

Security agencies interrogated several other individuals, including political commentator Hani Nsouli, journalist Ahmad Ayoubi, and activist Mohammad Awwad, for expressing their political opinions and analysis, which were deemed by some powerful local individuals to have been insulting to them or their reputations. In a case that provoked public outrage, security forces arrested 80-year-old Daoud Moukheiber a day after a video of him protesting the government’s decision to install high-voltage power lines through his town proliferated on social media. In the video, Moukheiber is seen using strong language against the president and two ministers – all members of the same party – to express his anger and disillusionment with the government’s encroachment on his basic rights.

In another incident, a prosecutor ordered Human Rights Watch and several other local publications to remove reporting on the alleged abuse of a migrant domestic worker in Lebanon pursuant to a defamation case filed by the worker’s employers.

In all the criminal defamation cases that Human Rights Watch investigated, the authorities behaved in ways that suggested bias in favor of the powerful individuals who had initiated the lawsuits, illustrating the potential for public officials, religious groups, and security agencies to misuse criminal defamation laws as a tool for retaliation and repression rather than as a mechanism for redress where genuine injury has occurred. The prosecution has applied the laws selectively, and security agencies have sometimes acted without a judicial order.

Human Rights Watch also recorded procedural irregularities at every stage of the investigation in the criminal defamation cases it documented. The prosecution and the security agencies often did not follow standard procedures, and in many instances expressly violated the law. Many individuals sued for defamation were arrested violently by armed guards in ways that are vastly disproportionate to their alleged crime. For

example, around 10 armed police officers from the Internal Security Forces stormed the offices of the online publication *Daraj* and arrested its co-founder and editor-in-chief Hazem al-Amin in connection with an already dropped lawsuit against *Daraj* for alleging that the son-in-law of a leading politician was evading taxes. “The way they were driving in the street, with the sirens and the convoy, it’s as if they caught Abu-Bakr Al-Baghdadi [the Islamic State leader],” al-Amin told Human Rights Watch.

Interviewees said interrogators used tactics that were physically or psychologically violent. On some occasions, defendants said interrogators violated their right to privacy and looked through their phones and social media accounts without a judicial order.

Interrogating agencies often pressured individuals to sign pledges promising not to write defamatory content about the complainant in the future or to remove their offending content immediately, in violation of their free speech and due process rights. Individuals were forced to sign these pledges before ever appearing before a judge and presenting their defense and sometimes without any charges being brought.

Between January 2015 and May 2019, the Internal Security Forces’ Cybercrimes Bureau released 1,461 individuals after an investigation after obtaining a “proof of address,” including individuals who pledged not to insult or write defamatory content about the complainant in the future and remove the offending electronic content. The Internal Security Forces (ISF) told Human Rights Watch that six individuals refused to sign such a pledge.

Lebanese lawyers agree that these pledges have no legal bearing. Nizar Saghieh, the co-founder and executive director of the regional rights group The Legal Agenda, told Human Rights Watch:

This is particularly outrageous. Here the purpose isn’t to get someone to trial, which is public. But just when you want someone to take back something that they said, in private, in a police station. In these cases, the individual is convicting himself before he even appears before a court. And it is taking away his right to a defense. A lot of cases end at this stage, after the person apologizes or signs a pledge. This dimension is evidence of a

high degree of repression. Here, you are silencing people rather than punishing them.

Nine individuals interviewed by Human Rights Watch were placed in pretrial detention in relation to defamation charges. Pretrial detention is only permissible in Lebanon for offenses that are punishable by more than one-year imprisonment. Even where pretrial detention is permissible, international human rights law says it should be the exception, not the rule. Lebanon's Code of Criminal Procedure also states that it should be the exception and only used where necessary to preserve evidence, protect the defendant, or preserve security. There is no indication that the judiciary assessed the necessity of holding individuals in pretrial detention. Further, some interviewees told Human Rights Watch that they believed the complainants or the public prosecution were adding additional articles for which the punishment exceeded one-year imprisonment to justify pretrial detention in defamation cases. While those additional charges were subsequently dropped for lack of evidence, they did result in security agencies detaining them pretrial.

In reviewing speech-related prosecutions in the criminal courts, Publications Court, and military courts, Human Rights Watch documented concerns regarding the training, independence, and impartiality of the judiciary, and some judges' failure to adequately consider the public interest in the cases before them.

The executive branch has extensive influence in the selection and appointment of judges, undermining the courts' independence and impartiality. And although the Publications Court was established to look into "publishing crimes," experts have criticized the appointments to the court for not considering expertise, competence, or merit. Experts also told Human Rights Watch that they are not aware of any systematic training that judges appointed to the Publications Court receive on international standards and best practices relating to freedom of expression.

Lawyers who have defended individuals in defamation cases, as well as free speech experts, say that because judges in the Publications Court are not well versed on international free speech standards, they apply the law literally, and are sometimes unable to effectively balance the public interest resulting from the criticism of public officials with the right of an individual to protect their dignity. Some lawyers have jokingly referred to the Publications Court as the "morality court."

However, Lebanese lawyers have noted that some judges – particularly newly-appointed judges – are starting to issue positive rulings in speech cases and setting good precedents for future prosecutions, in some cases citing and applying international human rights law and standards.

Although few individuals have served prison time on defamation charges, those subject to criminal prosecution have told Human Rights Watch about the negative impact of simply facing criminal investigations and trials. Defendants in criminal defamation cases interviewed by Human Rights Watch endured a number of difficult consequences as a result of the charges against them. Some were forced into self-imposed exile for fear of arrest or harassment upon return to Lebanon, causing stress and hardship to themselves and their families. Others endured professional consequences as a result of the claims against them including reporting being unfairly dismissed from their job. Many do not hear from the prosecution for long periods of time, leaving them confused as to whether the cases against them were still active or not. The fines and other sanctions resulting from the criminal process have also had a significant financial impact on many defendants and the publications they work for.

The use of criminal defamation laws has had a chilling effect on free speech in Lebanon. Many of the individuals interviewed by Human Rights Watch reported self-censoring after their often-intimidating experiences resulting from defamation lawsuits. Others noted the increasing use of criminal defamation laws has created a hostile environment in Lebanon for free speech and deterred others from writing freely. When citizens face possible prison time or trials in military court for complaining about official performance, corruption, or security service misconduct, other citizens have told Human Rights Watch that they take notice and are less likely to draw attention to such problems themselves, undermining effective governance and a vibrant civil society.

International human rights law allows for restrictions on freedom of expression to protect the reputations of others, but such restrictions must be necessary and narrowly drawn. Together with an increasing number of governments and international authorities, Human Rights Watch believes that criminal penalties are always disproportionate punishments for reputational harm and should be abolished. As repeal of criminal defamation laws in an increasing number of countries shows, such laws are not necessary: civil defamation and criminal incitement laws are sufficient for the purpose of protecting people's reputations

and maintaining public order and can be written and implemented in ways that provide appropriate protections for freedom of expression.

Human Rights Watch calls on the Lebanese parliament to repeal the defamation provisions in the Penal Code and replace them with civil defamation provisions, and to amend the new proposed media law to remove all prison sentences for speech crimes.

## Methodology

Research for this report was conducted between March 2019 and September 2019. Human Rights Watch conducted 42 interviews with victims of laws criminalizing free speech, including journalists and activists, as well as lawyers, government officials, and experts on free speech and members of local civil society organizations. Many interviewees shared arrest warrants, investigation reports, and court documents with us.

Most of our interviews were conducted in Beirut, as we relied on public reporting to identify victims of the criminal defamation laws, and then used snowball sampling to identify further individuals to speak with. Our sample is not reflective of the overall number of cases in Lebanon as a whole. However, local civil society groups working on freedom of expression believe that the majority of criminal defamation cases are taking place in Beirut. The interviews were conducted in Arabic and English.

Human Rights Watch informed all interviewees of the nature and purpose of our research, and our intentions to publish a report with the information gathered. We informed each potential interviewee that they were under no obligation to speak with us, that Human Rights Watch does not provide legal or other assistance, and that they could stop speaking with us or decline to answer any question with no adverse consequences. We obtained oral consent for each interview, and interviewees did not receive material compensation for speaking with Human Rights Watch.

As part of our research, we attempted to obtain statistics regarding the number of criminal defamation investigations and prosecutions from the Public Prosecutor, the Internal Security Forces' Cybercrimes Bureau, the Ministry of Justice, the criminal courts, the Publications Court, and the Military Court. Only the Military Court and the Internal Security Forces provided us with substantive responses to our requests for information.

The Ministry of Justice responded to our request stating that since the courts do not have an electronic information system, they are unable to provide us with the statistics we requested without committing additional resources to the task. The ministry, however, said it would welcome an initiative by Human Rights Watch to commit the necessary

human and financial capital to obtain the statistics. The Office of the Public Prosecutor also told Human Rights Watch that because their records are not digitized, they are not able to provide us with the information we requested.

Despite numerous attempts to follow up with the Publications Court and the criminal courts, we received no replies to our inquiries.

Human Rights Watch's letters and the responses received are attached in this report's appendix.

Human Rights Watch reviewed Lebanon's relevant legislation, including the Penal Code, the Code of Criminal Procedure, and the Publications Law, and consulted with Lebanese lawyers on the ways in which the laws have been interpreted and applied.

We also met with parliamentarians who were in the process of proposing amendments to a draft media law being debated in parliament and shared our recommendations with them.

This report was researched and written in close consultation with local civil society organizations who have been documenting free speech violations for many years, including Maharat Foundation, Samir Kassir Foundation, The Legal Agenda, Social Media Exchange (SMEX), and ALEF.

Human Rights Watch does not take a position on whether the conduct in which the individuals profiled in this report engaged in constitutes defamation. Rather, we oppose Lebanon's classification of such nonviolent conduct as potential criminal offenses.

# I. Background: Restriction of Space for Free Speech in Lebanon

Lebanon's constitution explicitly protects freedom of expression. Article 13 states "the freedom to express one's opinion orally or in writing, the freedom of the press, the freedom of assembly, and the freedom of association shall be guaranteed within the limits established by law."<sup>1</sup>

In the past in Lebanon journalists and citizens have usually been free to criticize politicians openly.<sup>2</sup> However, over the past few years, Lebanon has witnessed an alarming increase in attacks on peaceful speech and expression, which many analysts have linked to the 2015 garbage crisis, during which the government's mismanagement of waste led to garbage piling up on the streets of Beirut.<sup>3</sup> A popular movement under the banner "You Stink" called for sustainable solutions to the garbage crisis and an accounting for political corruption in the country.<sup>4</sup> The movement mobilized widespread demonstrations against the government's dysfunction and corruption in July and August 2015. Security forces used excessive force against protesters, and witnesses told Human Rights Watch that police fired water hoses without warning and kicked protesters, beat them with batons, and used rubber bullets, tear gas canisters, water cannons, and the butts of rifles.<sup>5</sup>

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<sup>1</sup> The Lebanese Constitution, 1926, art. 13,13, <https://www.lp.gov.lb/backoffice/uploads/files/Lebanese%20%20Constitution-%20En.pdf> (accessed May 20, 2019).

<sup>2</sup> "Despite a permissive online environment, digital freedom is on the decline," DW Akademie, May 7, 2019, <https://www.dw.com/en/despite-a-permissive-online-environment-digital-freedom-is-on-the-decline/a-48621349> (accessed September 18, 2019).

<sup>3</sup> Human Rights Watch interview with George Ghali, Executive Director of ALEF, Beirut, April 17, 2019; Human Rights Watch interview with Wadih al-Asmar, President of Lebanese Center for Human Rights (CLDH), Europe, May 8, 2019; Human Rights Watch interview with Layal Bahnam and Tony Mikhael, experts at Maharat Foundation, Beirut, May 10, 2019. See also Nazih Osseiran, "Lebanon, Once a Bastion of Political Freedom, Cracks Down on Speech," February 10, 2018, *The Wall Street Journal*, <https://www.wsj.com/articles/lebanon-once-a-bastion-of-political-freedom-cracks-down-on-speech-1518264000> (accessed May 20, 2019).

<sup>4</sup> "Social Movement Responding to the Lebanese Garbage Crisis," Civil Society Knowledge Centre, <https://civilsociety-centre.org/party/social-movement-responding-lebanese-garbage-crisis> (accessed May 20, 2019)

<sup>5</sup> "Lebanon: Police Violence Against Protesters," Human Rights Watch news release, August 22, 2015, <https://www.hrw.org/news/2015/08/22/lebanon-police-violence-against-protesters>.

The garbage crisis demonstrated the prevalent discontent with the establishment political parties and inspired independent candidates, primarily from civil society, to run in Lebanon's May 2016 municipal elections and subsequently in the May 2018 parliamentary elections.<sup>6</sup>

Countless protests have been organized by civil society, independent parties, and labor unions in cities and towns across Lebanon.<sup>7</sup> Demonstrators protested rampant corruption, the misuse of public funds, the worsening economic situation, and the austerity measures proposed by the government.

Lebanon's power-sharing system and weak central institutions have given rise to clientelist patronage networks and the misuse of public office and public funds for personal gain.<sup>8</sup> In a 2018 study, the Lebanese Center for Policy Studies (LCPS) found that 98 percent of Lebanese citizens believe that corruption is a very large or somewhat large problem in Lebanon, with more than 75 percent of respondents stating that corruption has strongly or somewhat increased in the past two years.<sup>9</sup>

Despite widespread perceptions about the prevalence of corruption in Lebanon, there has been little accountability for public officials accused of financial misconduct or

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<sup>6</sup> See, for example, "New Lebanese movement says wins 40 percent of Beirut municipal poll," Reuters, May 10, 2016, <https://www.reuters.com/article/us-lebanon-politics-election/new-lebanese-movement-says-wins-40-percent-of-beirut-municipal-poll-idUSKCN0Y12DH> (accessed May 20, 2019); "United in Watani" ("متحدون في وطني"), *An-Nahar*, January 19, 2018, <https://www.annahar.com/article/737056-%D9%85%D8%AA%D8%AD%D8%AF%D9%88%D9%86-%D9%81%D9%8A-%D9%88%D8%B7%D9%86%D9%8A> (accessed May 20, 2019).

<sup>7</sup> See, for example, "Beirut protesters decry corruption, politicians' vacations," *The Daily Star*, July 16, 2018, <https://www.dailystar.com.lb/News/Lebanon-News/2018/Jul-16/456689-beirut-protesters-decry-corruption-politicians-vacations.ashx> (accessed May 22, 2019); "Nationwide protests in Lebanon denounce corruption," *The Daily Star*, January 13, 2019, <http://www.dailystar.com.lb/News/Lebanon-News/2019/Jan-13/473922-nationwide-protests-in-lebanon-denounce-corruption.ashx> (accessed May 22, 2019); "Workers march against corruption for Labor Day," *The Daily Star*, May 1, 2019, <http://www.dailystar.com.lb/News/Lebanon-News/2019/May-01/482235-workers-march-against-corruption-for-labor-day.ashx> (accessed May 22, 2019); Zeina Khodr, "Lebanon's protesters angry over worsening economy," *Al Jazeera*, January 13, 2019, <https://www.aljazeera.com/news/2019/01/lebanons-protesters-angry-worsening-economy-190113061319077.html> (accessed May 22, 2019).

<sup>8</sup> Dima Mahdi and Daniel Garrote Sanchez, "How do People in Lebanon Perceive Corruption?" Lebanese Center for Policy Studies, February 2019, Number 38, [https://www.lcps-lebanon.org/publications/1552660702-policy\\_brief\\_38\\_web.pdf](https://www.lcps-lebanon.org/publications/1552660702-policy_brief_38_web.pdf) (accessed July 20, 2019).

<sup>9</sup> *Ibid.*

corruption.<sup>10</sup> Legislation passed by parliament to combat corruption and increase transparency, such as the Access to Information Law (February 2017) and a law protecting whistleblowers (September 2018), have no enforcement mechanisms and have yet to be implemented fully.<sup>11</sup>

Instead of committing to tackling corruption, members of the powerful and wealthy political elite have responded to threats to the status quo with repression and politically motivated prosecutions, particularly targeting individuals and journalists who are leveling accusations of corruption.<sup>12</sup> In a telling statement, on March 16, 2017, then-Deputy Speaker of Parliament called on the Lebanese state to “pursue those holding signs insulting the members of Parliament, prosecute them, and arrest them.”<sup>13</sup>

One of the key tools used by Lebanon’s powerful political elite to silence criticism has been the country’s criminal defamation laws, which authorize imprisonment of up to three years for criticism of the army, president, and public officials. Although the laws, which originated during the Ottoman and French colonial eras, have been on the books since the early 20th century, evidence reviewed by Human Rights Watch shows an exponential increase in their use, particularly targeting online speech.

The former Justice Minister, Salim Jreissati, who was in his position between 2016 and 2019, has repeatedly denied that freedom of expression was under attack or that senior members of his party, the Free Patriotic Movement, supported prosecutions under the

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<sup>10</sup> Timour Azhari, “I did what I could: Tueni defends anti-corruption efforts,” *The Daily Star*, October 23, 2018, <https://www.dailystar.com.lb/News/Lebanon-News/2018/Oct-24/467320-i-did-what-i-could-tueni-defends-anti-corruption-efforts.ashx> (accessed July 20, 2019).

<sup>11</sup> Dima Mahdi and Daniel Garrote Sanchez, “How do People in Lebanon Perceive Corruption?” Lebanese Center for Policy Studies, February 2019, Number 38, [https://www.lcps-lebanon.org/publications/1552660702-policy\\_brief\\_38\\_web.pdf](https://www.lcps-lebanon.org/publications/1552660702-policy_brief_38_web.pdf) (accessed July 20, 2019), p. 4-5; Timour Azhari, “I did what I could: Tueni defends anti-corruption efforts,” *The Daily Star*, October 23, 2018, <https://www.dailystar.com.lb/News/Lebanon-News/2018/Oct-24/467320-i-did-what-i-could-tueni-defends-anti-corruption-efforts.ashx> (accessed July 20, 2019); “Lebanon: Access to Information Law Stalled,” Human Rights Watch news release, September 27, 2019, <https://www.hrw.org/news/2019/09/27/lebanon-access-information-law-stalled>.

<sup>12</sup> Human Rights Watch interview with George Ghali, Executive Director of ALEF, Beirut, April 17, 2019; Human Rights Watch interview with Loyal Bahnam and Tony Mikhael, experts at Maharat Foundation, Beirut, May 10, 2019; Human Rights Watch interview with Ayman Mhanna, Executive Director of SKeyes Center for Media and Cultural Freedoms, Beirut, May 17, 2019.

<sup>13</sup> Al Jadeed News tweet on March 16, 2017, <https://twitter.com/ALJADEEDNEWS/status/842403617319604225> (accessed May 22, 2019).

defamation laws.<sup>14</sup> Both the president, who assumed power in October 2016, and the foreign minister, who has filed a large number of the defamation cases documented in this report, are members of the Free Patriotic Movement. Jreissati added that the president had personally asked him and the public prosecutor not to initiate cases against individuals who expressed an opinion against him.<sup>15</sup> Evidence presented in this report shows that, if true, this directive was not adhered to.

In a majority of the cases discussed in this report, the criminal defamation complaints were filed by powerful local individuals to silence individuals who had made allegations of corruption, fraud, or misconduct. In most of these cases, the investigations conducted into the defamation charges appeared to contain procedural irregularities or behavior that suggested bias.

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<sup>14</sup> Finbar Anderson, "Drawing Lines on Freedom of Speech," *The Daily Star*, September 24, 2018, <http://www.dailystar.com.lb/News/Lebanon-News/2018/Sep-24/464205-drawing-lines-on-freedom-of-speech.ashx>; (accessed May 22, 2019); Ben Hubbard, "When jokes become a crime: free speech under fire in Lebanon," *The New York Times*, February 21, 2018, <https://www.nytimes.com/2018/02/21/world/middleeast/lebanon-free-speech.html> (accessed May 22, 2019).

<sup>15</sup> *Ibid.*

## II. The Legal Framework: Criminal Defamation Law in Lebanon

Criminal defamation laws prohibit individuals from injuring the reputation of another person in the form of a spoken statement or in writing. In some countries, including Lebanon, “insult” laws specifically criminalize expressions deemed to offend the honor of public officials and institutions, in some cases even if the allegations were proven to be true.<sup>16</sup> Defamation laws, which are intended to protect honor and reputations, are distinct from incitement laws, which are intended to serve the purpose of maintaining public order, and prohibit forms of expression that are intended and likely to provoke crimes, such as imminent violence.

Many states have adopted some form of defamation law to protect individuals from unwarranted attacks on their reputations. Some only have civil defamation laws, meaning that individuals who believe they have been defamed may have access to a judicial remedy, but as a private actor, on their own initiative. If an individual is found guilty of civil defamation, they may be required to pay compensation to the defamed party or to take other measures such as publicly retracting the defamatory statement. Other states, including Lebanon, have criminal defamation laws, meaning that individuals may file a claim alleging defamation with the police, and the police and prosecutors will then use public funds to investigate the case on behalf of the state. The courts can punish those found guilty of defamation with fines or even imprisonment.

### Penal Code

Lebanon’s penal code defines what it considers to be a means of publication, and subsequent articles criminalize defamation and insults that appear in one of those means of publication, which include actions, speech, and writing in a public forum.

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<sup>16</sup> Human Rights Watch, “A Decade Under Chavez: Political Intolerance and Lost Opportunities for Advancing Human Rights in Venezuela,” September 2008, <http://www.hrw.org/reports/2008/venezuela0908><http://www.hrw.org/reports/2008/venezuela0908>, p. 75.

## *Insults*

Article 383 criminalizes insulting or threatening a public employee while they are doing their job by up to six-months imprisonment.<sup>17</sup> If the employee against whom the insults were directed was a public official, the punishment is two months to one-year imprisonment. If the insults were directed at a judge, the punishment is six months to two-years imprisonment.

Article 384 sets a penalty of six months to two-years imprisonment for insulting the president, flag, or national emblem.<sup>18</sup> Insulting religious rituals is also punishable by six months to three-years imprisonment.<sup>19</sup>

Insulting a foreign state, its head, or its political representatives in Lebanon is punishable by six months to two-years imprisonment and a fine up to 400,000 Lebanese pounds (US\$267).<sup>20</sup>

The truth is not an applicable defense with regards to insults.

## *Slander*

Slander (*tham*) is every attribution that attaches an action to a person or institution that can offend their honor or dignity.<sup>21</sup>

Slander directed against the president incurs two months to two-years imprisonment; against the courts, organized committees, army, or public administrations, up to one-year imprisonment; against public officials acting in their official capacity, up to six-months imprisonment; and against public employees against whom the alleged slander is related to the exercise of their office, up to three-months imprisonment or a fine between 20,000 and 200,000 Lebanese pounds (\$13 – 133).<sup>22</sup> The penal code also sets penalties for

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<sup>17</sup> Lebanese Penal Code, art. 383.

<sup>18</sup> *Ibid.*, art. 384.

<sup>19</sup> *Ibid.*, art. 474.

<sup>20</sup> *Ibid.*, art. 292.

<sup>21</sup> *Ibid.*, art. 385. Unlike in some common law jurisdictions, Lebanese law does not define slander as defamatory content that is spoken. Slander can take place in any means of publication.

<sup>22</sup> *Ibid.*, art. 386.

slander directed against private citizens up to three-months imprisonment and a fine up to 200,000 Lebanese pounds (\$133).<sup>23</sup>

The truth is a defense in slander cases only if the slander was directed at a public official or employee.<sup>24</sup> The truth is not a defense in all other cases of slander, including when directed at the president and at private citizens.<sup>25</sup>

### *Libel*

Libel (*qadh*) is every word of contempt, profanity, or insult that appears in a means of publication and is directed against an individual or institution. Because libel does not entail attaching an action to somebody, it is not subject to the truth defense.<sup>26</sup>

Libel is punishable by one month to one-year imprisonment if directed against the president; up to six months for libel against the courts, organized committees, army, public administration, public officials acting in their official capacity; and a fine of between 20,000 to 200,000 Lebanese pounds (\$13 – 133) or arrest for libel of public employees against whom the alleged libel is related to the exercise of their office.<sup>27</sup> Insults, slander, and libel against judges not acting in their official capacity are punishable by up to six-months imprisonment.<sup>28</sup>

The penal code also sets penalties of between one week and three-months imprisonment or a fine of between 50,000 and 400,000 Lebanese pounds (\$33 – 267) for libel of private citizens.<sup>29</sup>

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<sup>23</sup> Ibid., art. 582.

<sup>24</sup> Ibid., art. 387.

<sup>25</sup> Ibid., arts. 387 and 583.

<sup>26</sup> Ibid., art. 385. Unlike in common law jurisdictions, Lebanese law does not define libel as defamatory content is made in means other than speech. It can take place in any means of publication.

<sup>27</sup> Ibid., art. 388.

<sup>28</sup> Ibid., art. 389.

<sup>29</sup> Ibid., arts. 582 and 584.

### *Incitement Provisions*

Article 317 of the penal code punishes any acts or words, spoken or written, “intended to or resulting in instigating confessional or racial bigotry, or that provoke conflict between the sects” by one year to three-years imprisonment and a fine ranging from 100,000 to 800,000 Lebanese pounds (\$67 – 533). In these cases, an individual may also be deprived of some civil rights, including the right to assume employment in administrations related to one’s religious confession or to one’s labor union and the right to vote or be elected to all union and confessional organizations.<sup>30</sup>

The provision does not specify what “confessional or racial bigotry” entails, nor does it require that the speech be likely to, or even intended to, incite discrimination, hostility, or violence. A law that is so vague that individuals do not know what expression may violate it has a chilling impact on free speech because citizens may avoid discussing any subject that they fear might subject them to prosecution. Vague provisions not only do not give sufficient notice to citizens, but also leave the law subject to abuse by authorities who may use them to silence dissent.<sup>31</sup> If a criminal law is not clearly defined so that anyone can predict what acts would constitute a crime, it will be arbitrary under international human rights law.

### **Military Code of Justice**

Individuals who insult the flag or the army, or insult “its dignity, reputation, and morale, or do anything that weakens order in the military or that undermines subordination to superiors or respect owed to them” can be punished by three months to three-years imprisonment under Article 157 of the Military Code of Justice and subject to trial in military courts.<sup>32</sup> The truth of the statements being made is not a defense in these cases.<sup>33</sup>

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<sup>30</sup> Ibid., arts. 317 and 65.

<sup>31</sup> See Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, Frank La Rue, September 2012, UN Doc. A/67/357, para. 32 (expressing concern that “vaguely worded and ambiguous laws” to combat hate speech are frequently used to silence criticism and legitimate political expression). See also United States Supreme Court, *Papachristou v. City of Jacksonville*, 405 U.S. 156 (1972), at 170 (law is void for vagueness if it is a “standardless sweep” that allows law enforcement officials to pursue their own predilections.).

<sup>32</sup> Lebanese Code of Military Justice, 1968, art. 157.

<sup>33</sup> Human Rights Watch interview with Nizar Saghie, co-founder and executive director of The Legal Agenda, Beirut, April 9, 2019.

The vague and overbroad language of this article violates Lebanon’s obligations under international law, which prohibit restrictions on freedom of expression on national security grounds unless they are strictly construed, and necessary and proportionate to address a legitimate threat.

The Military Code of Justice also stipulates that the provisions of the Penal Code can be applied in the military courts if the alleged defamatory statement or content is directed at any member of the military institution.<sup>34</sup>

## Publications Law

The printed press in Lebanon is governed by the Publications Law of 1962 (also referred to as the Press Law), which was amended by legislative decree no. 104/1977 and subsequently by law no. 330/1994.<sup>35</sup> The Publications Law clearly defined the practice of journalism and what is to be considered a “publication” and thus subject to the law’s provisions.<sup>36</sup>

The Publications Law established a special court at the appeals level – the Publications Court – with jurisdiction over all cases related to publication crimes, including defamation. The decisions of the Publications Court are only subject to one level of appeal, at the Publications Court of Cassation.<sup>37</sup> The Publications Court is bound by the Code of Criminal Procedure, and it applies the provisions of the Penal Code regarding crimes that are not referred to in the Publications Law.<sup>38</sup> The law, does, however, prohibit pretrial detention for all publishing crimes.<sup>39</sup>

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<sup>34</sup> Lebanese Code of Military Justice, art. 24; Human Rights Watch, “It’s Not the Right Place for Us:” The Trial of Civilians by Military Courts in Lebanon,” January 2017, [https://www.hrw.org/sites/default/files/report\\_pdf/lebanono117\\_web\\_5.pdf](https://www.hrw.org/sites/default/files/report_pdf/lebanono117_web_5.pdf), p. 13; Alef, “Military Tribunal: a breach in the integrity of the judicial system,” <https://alefliban.org/wp-content/uploads/2016/10/MILITARY-english.pdf><https://alefliban.org/wp-content/uploads/2016/10/MILITARY-english.pdf> (accessed May 9, 2019), p. 1.

<sup>35</sup> Chadia El Meouchi and Marc Dib, “Media law in Lebanon: an overview,” Media law International, <http://www.medialawinternational.com/page148.html> (accessed May 23, 2019).

<sup>36</sup> Lebanese Publications Law, 1962, arts. 1-11.

<sup>37</sup> Legislative Decree 104/1977, art. 28(1).

<sup>38</sup> Ibid., arts. 31 and 33.

<sup>39</sup> Law no. 330/1994, art. 6.

Although the Publications Law provides that the press shall be free, it places restrictions on the freedom of the press and sets significant prison sentences and fines for violating these restrictions.<sup>40</sup> Article 12 of the law prohibits publishing anything that is “contrary to morality and public morals,” punishable by a fine of 100,000 to 300,000 Lebanese pounds (\$66 – 200).<sup>41</sup> Article 23 prohibits defaming or insulting the dignity of the Lebanese president as well as the president of any foreign state,<sup>42</sup> punishable by imprisonment between two months to two years and a fine of 50 million to 100 million Lebanese pounds (\$33,333 – 66,666).<sup>43</sup>

The law further prohibits the publication of anything that contains an insult to one of the recognized religions in the country and that would instigate confessional or racial bigotry, disrupt the public peace, or jeopardize the integrity, sovereignty, unity, or borders of the state or its external relations.<sup>44</sup> Committing one of the vaguely defined and overbroad offenses listed in the article could result in imprisonment from one to three years, and a fine from 50 million to 100 million Lebanese pounds (\$33,333 – 66,666).<sup>45</sup>

The defamation provisions in the Publications Law also set the penalties for insults, libel, and slander, as defined in the Penal Code. Insulting, slandering, or committing libel against a public employee acting in his official capacity is punishable by one month to six-months imprisonment and a fine between 60,000 Lebanese pounds and 100,000 Lebanese pounds (\$40 – 67). The penalties are greater if the defamation was directed against a public official (three months to one-year imprisonment and a fine up to 200,000 Lebanese pounds (\$133)) and a judge (one to two-years imprisonment and a fine up to 200,000 Lebanese pounds (\$133)).<sup>46</sup> Slander (*tham*) directed against other individuals or legal entities is punishable by three months to one-year imprisonment and a fine,<sup>47</sup> and libel (*qadh*) by one month to six-months imprisonment and a fine.<sup>48</sup> As discussed above,

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<sup>40</sup> Publications Law 1962, art. 1.

<sup>41</sup> *Ibid.*, art. 12.

<sup>42</sup> Legislative Decree 104/1977, art. 23.

<sup>43</sup> Law no. 330/1994, art. 4.

<sup>44</sup> *Ibid.*, art. 5.

<sup>45</sup> *Ibid.*, art. 5.

<sup>46</sup> Legislative Decree 104/1977, art. 22.

<sup>47</sup> *Ibid.*, art. 20.

<sup>48</sup> *Ibid.*, art. 21.

the truth is only a defense in cases of slander directed against public officials and employees.<sup>49</sup>

### *Electronic and Social Media*

Lebanon does not currently have any law regulating publishing on the Internet, including on online blogs and social media.

The absence of a regulatory framework for online speech has led to confusion over whether online forums should be considered publications and therefore subject to the Publications Law, or whether they are excluded from the definition of a publication under the law and as such subject to the Penal Code and under the jurisdiction of the criminal courts.

Judges in the Publications Court have issued contradictory rulings in this regard. On October 10, 2016, the Publications Court of Cassation ruled on appeal that the Publications Court has no jurisdiction over content published on Facebook, overturning the lower court's judgment that Facebook can be considered a publication and therefore subject to the jurisdiction of the Publications Court.<sup>50</sup> Despite this ruling, some judges in the Publications Court continued to accept defamation cases about social media posts.<sup>51</sup>

Although the Publications Law places some restrictions on the press, it also affords certain guarantees.<sup>52</sup> The Publications Law prohibits pretrial detention for all speech crimes that occur in a medium covered by the law, regardless of the sentence that they carry.<sup>53</sup> By

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<sup>49</sup> Refer to "Penal Code" section above.

<sup>50</sup> Court judgement issued by the by the Publications Cassation Court, number 49/2016, October 10, 2016.

<sup>51</sup> For example, on May 24, 2017, the Publications Court then headed by Judge Roukoz Rizk found Dr. Naji Karam guilty of defaming the Director General of the Ministry of Culture in comments he made in a public Facebook post under Article 22 of the Publications Law; "Maharat Foundation Report on the Occasion of World Press Freedom Day about Freedom of Opinion and Expression in Lebanon between May 2018 and April 2019," Maharat Foundation, <http://maharatfoundation.org/media/1584/maharat-report-world-press-freedom-day-english.pdf> (accessed May 22, 2019); "Preliminary ruling of the Lebanese Court of Cassation in the antiquities case: an invitation to discuss the validity of the Publications Court in Facebook cases," (المطبوعات في قضايا الفاييسوك دعوة لمناقشة صلاحية محكمة ) حكم إعدادي لمحكمة التمييز اللبنانية في قضية الآثار: دعوة لمناقشة صلاحية محكمة (المطبوعات في قضايا الفاييسوك), The Legal Agenda, February 12, 2019, <http://www.legal-agenda.com/article.php?id=5309> (accessed May 22, 2019).

<sup>52</sup> Human Rights Watch interview with Roula Mikhael, Loyal Bahnam, and Tony Mikhael, experts at Maharat Foundation, August 21, 2019.

<sup>53</sup> Law no. 330/1994, art. 6.

contrast, the Penal Code allows for pretrial detention for crimes that result in imprisonment longer than one year.<sup>54</sup>

Further, the Publications Law stipulates that only an investigative judge can interrogate or question an individual accused of crimes that appear in the Publications Law, and they must refer the case to the Publications Court within five days.<sup>55</sup> Lawyers are allowed to be present during a questioning with the investigative judge.<sup>56</sup>

Security agencies are not allowed to conduct interrogations in cases covered under the Publications Law, thus mitigating the risk that individuals will be subjected to the intimidation, abuse, and privacy violations described in Chapter 7. Lawyers are not usually permitted to be present during questionings with the security agencies (See Chapter 7).

The inconsistency with which online speech is dealt with in the courts not only deprives individuals from vital protections guaranteed in the Publications Law, but also risks subjecting individuals to prosecutions before several courts for the same statement. For example, if someone writes alleged defamatory content in an article that is published on an online newspaper, they could potentially face trial in both the Publications Court and the criminal court.<sup>57</sup>

## Electronic Transactions Law

The Electronic Transactions and Personal Data Law (e-Transactions Law), Law 81, was adopted on October 10, 2018 and went into effect in January 2019.<sup>58</sup> It was intended to regulate online commerce while protecting the data and privacy of businesses and Internet users. Experts have criticized the law for failing to comply with the latest data protection

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<sup>54</sup> Lebanese Code of Criminal Procedure, art. 107.

<sup>55</sup> Legislative Decree 104/1977, art. 29.

<sup>56</sup> Lebanese Code of Criminal Procedure, art. 76.

<sup>57</sup> See, for example, “Maharat Foundation Report on the Occasion of World Press Freedom Day about Freedom of Opinion and Expression in Lebanon between May 2018 and April 2019,” Maharat Foundation, <http://maharatfoundation.org/media/1584/maharat-report-world-press-freedom-day-english.pdf> (accessed May 22, 2019).

<sup>58</sup> Law No. 81 Relating to Electronic Transactions and Personal Data, (E-Transactions Law), 2018, [https://smex.org/wp-content/uploads/2018/10/E-transaction-law-Lebanon-Official-Gazette\\_ENGLISH.pdf](https://smex.org/wp-content/uploads/2018/10/E-transaction-law-Lebanon-Official-Gazette_ENGLISH.pdf) (accessed June 6, 2019).

regulations and granting a number of ministries broad jurisdiction over the handling of personal data.<sup>59</sup>

The law amended Article 209 of the Penal Code, which defines what is considered a means of publication to explicitly recognize dissemination by “electronic means.”<sup>60</sup> However, some experts have criticized this provision, which makes no distinction between an individual’s private social media account and official social media pages that are intended to act as publications.<sup>61</sup> They claim that this blurs the boundaries between private and public interactions, and risks subjecting private online conversations to the provisions of the Penal Code.<sup>62</sup>

Article 126 of the e-Transactions Law grants the public prosecution the authority to “temporarily suspend certain electronic services, block websites or freeze accounts in such websites, for no more than thirty days.” This period may be renewed once through a “justified decision.” The Public Prosecution’s decisions are not subject to appeal.<sup>63</sup>

Experts told Human Rights Watch that this article is inconsistent with Article 125 of the same law, which only allows the courts to block websites in limited cases related to terrorism, child pornography, electronic fraud, and other serious national security grounds.<sup>64</sup> Since the judiciary has more authority than the public prosecution, they recommended that parliament amend Article 126 to bring it in line with Lebanese legal principles.<sup>65</sup>

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<sup>59</sup> “An “Ugly” New Data Protection Law in Lebanon,” Social Media Exchange (SMEX), October 11, 2018, <https://smex.org/an-ugly-new-data-protection-law-in-lebanon/> (accessed June 6, 2019).

<sup>60</sup> Lebanese Penal Code, art. 209, as amended by the E-Transactions Law of 2018, art. 118.

<sup>61</sup> Roundtable with Layal Sakr, Director of SEEDS for Legal Initiatives, Beirut, August 8, 2019, attended by Human Rights Researcher.

<sup>62</sup> Ibid.

<sup>63</sup> E-Transactions Law (Law 81/2018), art. 126.

<sup>64</sup> Ibid., art. 125; Human Rights Watch interview with Roula Mikhael, Layal Bahnam, and Tony Mikhael, experts at Maharat Foundation, August 21, 2019.

<sup>65</sup> Ibid.

## New Media Law

The Lebanese parliament began discussing a proposal to amend the outdated Publications Law submitted by former parliamentarian, Ghassan Moukheiber, and Maharat Foundation, a Beirut-based NGO specializing in media and free speech issues, in 2010. The proposal was still being debated as of September 2019, but parliamentarians have promised to make efforts to pass the law by the end of 2019. Human Rights Watch reviewed a version of the law that was last amended in April 2019. In that draft, the law defined and regulated “electronic media,” and placed it under the jurisdiction of the Publications Court.<sup>66</sup>

Although the proposed law prohibits pretrial detention for all publishing crimes, including those on social media, the proposed law does not remove prison sentences for defamation and in some instances increases the prison penalties and multiplies the fines.<sup>67</sup> Under the April 2019 version of the proposal, slander and libel are punishable by up to three-months imprisonment or a fine between five times to fifteen times the minimum wage.<sup>68</sup> Truth is a defense only if the slander or libel was directed at a public employee and the statements were related to the exercise of their office, and only if the defendant can prove the veracity of the claims being made.<sup>69</sup>

The proposed law also imposes harsh penalties for insulting, slandering, or publishing any libelous material against the Lebanese president or the president of a foreign country (imprisonment from one to two years and a fine between 10 and 20 times the minimum wage) and ambassadors or heads of diplomatic delegations to Lebanon (half the penalties imposed for insulting the president).<sup>70</sup> The law also permits the Publications Court to “take the necessary measures” to stop the dissemination of the alleged defamatory or insulting content, without explaining what those measures are.<sup>71</sup> In these cases, the veracity of the statements is not a defense.

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<sup>66</sup> New Media Law draft, as amended by Parliament’s Justice and Administration sub-committee in April 2019.

<sup>67</sup> *Ibid.*, art. 68.

<sup>68</sup> *Ibid.*, art. 74.

<sup>69</sup> *Ibid.*, art. 74.

<sup>70</sup> *Ibid.*, arts. 75 and 76.

<sup>71</sup> *Ibid.*, art. 75.

Further, the proposed law prohibits the publishing of any content that is deemed to constitute “insults to one of the recognized religions in Lebanon or that incites sectarian bigotry/tensions or endangers public order or puts the peace of the country, its sovereignty, its unity, its borders, or its external relations in danger.”<sup>72</sup> These crimes would be punishable by one to three-years imprisonment and a fine between 10 and 20 times the minimum wage. In case the crime is repeated, the penalty is doubled and the publication is suspended for “at least” six months.<sup>73</sup>

These articles in the proposed law constitute an unacceptable restriction on free speech, and if passed, would set Lebanon even further behind. Human Rights Watch has been advocating with members of Parliament to amend these articles so that they comply with international human rights law.

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<sup>72</sup> Ibid., art. 77.

<sup>73</sup> Ibid., art. 77.

### III. Use of Criminal Defamation Laws on the Rise

Although there is a consensus among civil society groups and journalists that the number of defamation cases has increased significantly in recent years, it has been difficult to obtain accurate statistics for the numbers of prosecutions initiated by the public prosecution and private individuals.<sup>74</sup>

The public prosecutor can initiate “public interest” cases regarding content that is deemed to be insulting to the president, inciting sectarian tensions, disturbing the public peace and endangering the sovereignty of the state, or disseminating false news about the military institution.<sup>75</sup> In these cases, the police and prosecutors will use public funds to investigate the case on behalf of the state.

Individuals, including public officials, members of the judiciary, and private citizens, can also file complaints to the public prosecution alleging defamation. The state is then obligated to use public funds to investigate the alleged crime.<sup>76</sup> However, individuals also have the right to bring a civil action for damages suffered as a result of the offense. They can join the prosecution as a civil party before the criminal courts.<sup>77</sup> If private individuals withdraw their lawsuit, the state’s case is also dropped. However, even if public officials withdraw their lawsuit, the state’s case remains ongoing.<sup>78</sup>

As discussed above, the prosecution can refer defamation cases to the Publications Court, for defamatory content that appears in the traditional press and some cases involving

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<sup>74</sup> Human Rights Watch interview with George Ghali, Executive Director of ALEF, Beirut, April 17, 2019; Human Rights Watch interview with Jad Shahrour, communications officer at SKeyes Center for Media and Cultural Freedoms, Beirut, April 8, 2019; Human Rights Watch interview with Mohammad Najem, Executive Director of Social Media Exchange, (SMEX), Beirut, April 17, 2019; Human Rights Watch interview with Ayman Mhanna, executive Executive Director of SKeyes Center for Media and Cultural Freedoms, Beirut, May 17, 2019; Human Rights Watch interview with Layal Bahnam and Tony Mikhael, experts at Maharat Foundation, Beirut, May 10, 2019.

<sup>75</sup> “Maharat Foundation Report on the Occasion of World Press Freedom Day about Freedom of Opinion and Expression in Lebanon between May 2018 and April 2019,” Maharat Foundation, <http://maharatfoundation.org/media/1584/maharat-report-world-press-freedom-day-english.pdf> (accessed May 22, 2019).

<sup>76</sup> Lebanese Code of Criminal Procedure, art. 5.

<sup>77</sup> Ibid.

<sup>78</sup> Rana Saghieh, “Analytical Study of the Judgements in the Publications Court”, The Legal Agenda, 2014, <http://www.legal-agenda.com/uploads/دراسة%20تحليلية%20للأحكام%20في%20قضايا%20المطبوعات.pdf> (accessed September 18, 2019).

content on electronic and social media; to the criminal courts, for defamatory content that appears in electronic and social media; or to the Military Courts, for defamation via any medium against any member of the military institution.

Human Rights Watch requested statistics on the defamation cases initiated and referred to each of those courts. The Ministry of Justice failed to provide any relevant information on the cases referred to the criminal courts. In the response received, the President of the Higher Judicial Council stated that “Lebanese courts do not rely on automation in their work ... thus, the courts do not currently have the capacity to prepare such statistics ... without allocating new staff to this end.”<sup>79</sup>

The Publications Court did not respond to Human Rights Watch’s request for information, despite repeated attempts. However, Maharat Foundation, a Beirut-based NGO specializing in media and free speech issues, was able to obtain some figures from the court for 2018 and 2019. They found that in 2018, a total of 95 defamation and incitement cases were referred to the Publications Court. Of those, 73 were filed by the individuals who were defamed, and 22 were initiated by the public prosecutor in the name of the public interest.<sup>80</sup>

Between January and April 2019, 15 cases were referred to the Publications Court, of which 6 were public interest cases.<sup>81</sup> According to Maharat Foundation, the proportion of cases referred to the publications court in the same period decreased 45 percent between 2018 and 2019.<sup>82</sup> However, experts at Maharat Foundation attribute this decrease in large part to the increasing number of cases involving social media that are being referred to the criminal courts instead, as well as the exceptional uptick in prosecutions ahead of the May 2018 elections.<sup>83</sup>

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<sup>79</sup> Letter from the Ministry of Justice to Human Rights Watch, April 8, 2019.

<sup>80</sup> “Maharat Foundation Report on the Occasion of World Press Freedom Day about Freedom of Opinion and Expression in Lebanon between May 2018 and April 2019,” Maharat Foundation, <http://maharatfoundation.org/media/1584/maharat-report-world-press-freedom-day-english.pdf> (accessed May 22, 2019).

<sup>81</sup> Ibid.

<sup>82</sup> Ibid.

<sup>83</sup> Human Rights Watch interview with Layal Bahnam and Tony Mikhael, Beirut, May 10, 2019.

There has been a noticeable increase in the number of cases initiated by the Military Prosecutor against individuals for defamation between 2016 and 2019. The Head of the Military Tribunal, Brigadier General Hussein Abdallah, provided Human Rights Watch with a list of 15 cases that the Military Prosecutor initiated between October 2016 and March 2019 relating to defamation and insult charges.<sup>84</sup> Human Rights Watch was able to identify three additional defamation cases filed by the Military Prosecutor between March and September 2019.<sup>85</sup>

According to Brigadier General Abdallah's records, the military prosecutor initiated one speech-related case in 2016 and one 2017. In 2018, however, he initiated 10 such cases. In 2019, as of September, the military prosecutor had brought defamation cases against at least six individuals.<sup>86</sup>

The number provided by the Military Tribunal are not exhaustive. Brigadier General Abdallah told Human Rights Watch that there is no mechanism to filter through court records for cases specifically related to defamation, as the article most commonly invoked, Article 157, is not limited to defamation and encompasses any potential altercation between a civilian and a member of the military institution.<sup>87</sup> Therefore, Brigadier General Abdallah compiled this list on his own initiative relying on his memory of defamation cases.

The most telling indicator of the rise in the use of the criminal defamation laws is the number of cases that the public prosecution has referred to the Anti-Cybercrime and Intellectual Property Rights Bureau (Cybercrimes Bureau) for investigation, prior to being transferred to the courts. The Cybercrimes Bureau is a unit in the judicial police of the

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<sup>84</sup> Human Rights Watch interview with Brigadier General Hussein Abdallah, Head of the Military Tribunal, Beirut, April 11, 2019.

<sup>85</sup> Court document provided to Human Rights Watch by Adam Chamseddine; "Release of citizen after 12 day arrest for Tweets that insult the President and incite sectarian tensions" (إطلاق سراح مواطن بعد اعتقاله 12 يوماً بسبب تغريدات "تُحفر رئيس" (الجمهورية وتثير النزعات الطائفية), Skeyes Media, July 31, 2019, <http://www.skeyesmedia.org/ar/News/Lebanon/7950> (accessed September 17, 2019).

<sup>86</sup> Court records provided to Human Rights Watch by Brigadier General Hussein Abdallah; Court records provided to Human Rights Watch by Adam Chamseddine; "Release of citizen after 12 day arrest for Tweets that insult the President and incite sectarian tensions" (إطلاق سراح مواطن بعد اعتقاله 12 يوماً بسبب تغريدات "تُحفر رئيس الجمهورية وتثير النزعات الطائفية"), Skeyes Media, July 31, 2019, <http://www.skeyesmedia.org/ar/News/Lebanon/7950> (accessed September 17, 2019).

<sup>87</sup> Human Rights Watch interview with Brigadier General Hussein Abdallah, Beirut, April 11, 2019.

Internal Security Forces (ISF), which was established in 2006 to combat cybercrime and enhance online security in Lebanon.<sup>88</sup> Its mandate has included investigating defamation cases for speech published online. Lebanese lawyers and NGO specialists believe that the majority of defamation cases initiated against activists and journalists have been for critical speech published online.<sup>89</sup> The Cybercrimes Bureau does not initiate cases itself, but relies on the prosecution to refer cases to the bureau for investigation. The prosecution can initiate cases itself in the name of the public interest, or it can direct the Cybercrimes Bureau to take action based on a complaint filed by private individuals.<sup>90</sup>

Between January 2015 and May 2019, the Cybercrimes Bureau investigated 3,599 cases relating to defamation, libel, and slander. Of those, 185 were initiated based on complaints by public officials, 22 based on complaints by religious institutions, and 46 based on direct referrals from the public prosecutor in the name of the public interest.<sup>91</sup> The rest were initiated based on complaints by private citizens.<sup>92</sup>

The statistics reviewed by Human Rights Watch demonstrate the alarming increase in the number of defamation cases referred to the Cybercrimes Bureau for investigation. In 2015, the bureau investigated 341 such cases. The number increased to 755 the following year, and 800 the year after. In 2018, however, the bureau investigated 1,451 defamation cases – an increase of 81 percent from the previous year and 325 percent from 2015. The sharp increase in 2018 appears to be related to attempts to control critical speech ahead of the May parliamentary elections. In 2019, as of May 15, 252 defamation cases were referred to the Cybercrimes Bureau for investigation.<sup>93</sup>

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<sup>88</sup> “Facts on Anti-Cybercrime and Intellectual Property Rights Bureau,” *The Daily Star*, December 7, 2016, <http://www.dailystar.com.lb/News/Lebanon-News/2016/Dec-07/384401-facts-on-anti-cybercrime-and-intellectual-property-rights-bureau.ashx> (accessed May 22, 2019).

<sup>89</sup> Human Rights Watch interview with Nizar Saghieh, co-founder and executive director of The Legal Agenda, Beirut, April 9, 2019; Human Rights Watch interview with George Ghali, Executive Director of ALEF, Beirut, April 17, 2019; Human Rights Watch interview with Dr. Charbel Kareh, Information Technology law & its intellectual properties rights specialist, Beirut, May 17, 2019; Human Rights Watch interview with Jad Shahrour, communications Communications Officer at SKeyes Center for Media and Cultural Freedoms, Beirut, April 8, 2019.

<sup>90</sup> Letter from the Internal Security Forces to Human Rights Watch, May 17, 2019; Human Rights Watch interview with Dr. Charbel Kareh, Information Technology law & its intellectual properties rights specialist, Beirut, May 17, 2019.

<sup>91</sup> Letter from the Internal Security Forces to Human Rights Watch, May 17, 2019.

<sup>92</sup> *Ibid.*

<sup>93</sup> *Ibid.*

Although experts believe that the Cybercrimes Bureau has handled the majority of the defamation cases, Human Rights Watch has documented investigations carried out by other security agencies pursuant to defamation charges, including the ISF's Information Branch, the ISF's Central Criminal Investigations Office, General Security's Information Branch, State Security, and Military Intelligence.<sup>94</sup> Therefore, the statistics provided above are not exhaustive, and the number of individuals investigated and prosecuted for defamation is higher.

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<sup>94</sup> Human Rights Watch interview with George Ghali, Executive Director of ALEF, Beirut, April 17, 2019; Human Rights Watch interview with Jad Shahrour, communications officer at SKeyes Center for Media and Cultural Freedoms, Beirut, April 8, 2019; Human Rights Watch interview with Mohammad Najem, Executive Director of Social Media Exchange, (SMEX), Beirut, April 17, 2019; Human Rights Watch interview with Ayman Mhanna, executive Executive Director of SKeyes Center for Media and Cultural Freedoms, Beirut, May 17, 2019; Human Rights Watch interview with Layal Bahnam and Tony Mikhael, experts at Maharat Foundation, Beirut, May 10, 2019.

## IV. Speech Criticizing the Authorities is Criminalized

In recent years Lebanon's criminal defamation laws have been used against journalists, activists, and other citizens who have written about corruption by public officials, reported misconduct by security agencies, expressed their opinions and discontent with the current political and economic situation, and exposed abuse against vulnerable populations. Critical speech in these cases should be encouraged, not criminalized, as it is vital for a vibrant civil society and a functioning democracy.

### Writing about Corruption and Misconduct by Public Officials

A large number of defamation cases investigated by Human Rights Watch resulted from speech related to writing or speaking about corruption and misconduct by public officials. Michel Kanbour, a Lebanese journalist and founder of the online newspaper *Lebanon Debate*, told Human Rights Watch he has been sued for defamation 30 times since 2012. He estimates that around 20 of those have been initiated since 2015.<sup>95</sup> Most of Kanbour's defamation lawsuits have resulted from his reporting on corruption and misconduct by public officials.<sup>96</sup>

In one case, the Director General of a state institution filed a defamation lawsuit against Kanbour for writing an article accusing him of corruption on August 2, 2017.<sup>97</sup> In March 2018, the Publications Court sentenced Kanbour to six-months imprisonment and a fine of 10 million Lebanese liras (US\$6,667) in absentia.<sup>98</sup> Kanbour claims that he was not informed of the lawsuit against him. He told Human Rights Watch that he found out about the case against him when some Lebanese media outlets contacted him for a comment on the day the sentence was issued.<sup>99</sup>

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<sup>95</sup> Human Rights Watch interview with Michel Kanbour, co-founder and journalist at Lebanon Debate, Jal El Dib, April 11, 2019.

<sup>96</sup> Ibid.

<sup>97</sup> "Scandal at the Tripoli Port," (فضيحة في مرفأ طرابلس), Lebanon Debate, August 2, 2017, <https://www.lebanondebate.com/news/345853> (accessed May 22, 2019).

<sup>98</sup> Human Rights Watch interview with Michel Kanbour, Jal El Dib, April 11, 2019. See also "Journalist sentenced to six months in prison as media suppression goes on," Kataeb, March 16, 2018, <https://www.kataeb.org/security-justice/2018/03/16/journalist-sentenced-to-six-months-in-prison-as-media>

<sup>99</sup> Human Rights Watch interview with Michel Kanbour, Jal El Dib, April 11, 2019.

When Kanbour inquired with the court why he was not informed, the clerks told him that his wife had signed the court's legal summons. Kanbour, however, said that the signature on the document was not his wife's.<sup>100</sup> "The Publications law doesn't respect international law because the trueness of the fact doesn't matter ... so any article that is courageous, you should expect a lawsuit," Kanbour said. "In 2019, it is a disgrace that our judges issue rulings for imprisoning journalists. The only reason that can justify imprisoning a journalist is inciting violence. Supposedly insulting someone shouldn't."<sup>101</sup>

Other individuals have been called in for questioning and made to remove allegations of corruption, even before they had a chance to present their evidence. Ziad Zeidan, an activist from Beirut, was summoned for investigation at the Cybercrimes Bureau on Friday, February 1, 2019.<sup>102</sup> Two hours before he received a call from the bureau, Zeidan said he had posted a public live video on Facebook stating that in the evening, he will reveal evidence proving corrupt activities by the head of a municipality. The officer from the bureau told Zeidan that he needed to be at the bureau for an investigation within two hours, but declined to tell him the reason. Zeidan said that was impossible and called his lawyer, who was able to postpone the interrogation until Monday, February 4, 2019 on the condition that he would cancel the live video he had scheduled for that evening. The lawyer also found out from the Cybercrimes Bureau that the investigation was pursuant to a slander and libel lawsuit filed by the advisor of the municipal official.<sup>103</sup>

On Monday, Zeidan said he went to the Cybercrimes Bureau for an investigation that lasted from 9 a.m. until 9 p.m. During this period he was not allowed to have his lawyer with him. The Cybercrimes Bureau also called in two other individuals, Abdeulkarim Qumbrees and Chafiq Bader, for investigation, as they had "liked" his live video on Facebook, and according to Zeidan, an unknown individual had told the Bureau that they had assisted him in the research.<sup>104</sup> While Zeidan was being questioned, he said officers in the adjacent room looked through the contents of his phone and printed some conversations. At the

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<sup>100</sup> Ibid.

<sup>101</sup> Ibid.

<sup>102</sup> "Cybercrimes Bureau interrogates three activists over Facebook posts," (مكتب مكافحة جرائم المعلوماتية "يُحَقِّق مع ثلاثة"), SKeyes Media, February 5, 2019, <http://www.skeyesmedia.org/ar/News/Lebanon/7666> (accessed May 24, 2019).

<sup>103</sup> Human Rights Watch interview with Ziad Zeidan, activist, Beirut, April 15, 2019.

<sup>104</sup> Ibid.

end of the interrogation, according to Zeidan, the officers ordered him to remove the Facebook posts promoting and related to the video that was going to uncover the evidence pointing towards serious corruption in the municipality. They also instructed him and the two other men sign a pledge stating that they will not offend the official or his advisor in the future. Zeidan said that the officers did not threaten him, but after 12 hours of interrogation he felt that if he did not sign the pledge, he would not have been permitted to leave the bureau.<sup>105</sup>

Zeidan maintained that the intention behind the post was to draw attention to allegations of the squandering of public money. “This is our money,” he told Human Rights Watch. “The state should have watched it [the video] and taken action according to the allegations. Lebanon is dead, what can we say?”<sup>106</sup>

A businessman who is also the son-in-law of a prominent politician filed a criminal defamation lawsuit against journalist Hazem al-Amin following the publication of an article in *Daraj*, an independent pan-Arab news website, on June 20, 2018 raising questions about offshore companies and taxes, and raising questions as to the involvement of the politician in the scheme. Al-Amin is the co-founder and editor-in-chief of *Daraj*.<sup>107</sup>

A few days later, the businessman filed a defamation lawsuit against al-Amin. Although the businessman subsequently retracted the complaint, Internal Security Forces (ISF) officers raided *Daraj*'s office and detained al-Amin on December 10, 2018.<sup>108</sup> Al-Amin was released a few hours later, when the police officers confirmed that the lawsuit had indeed been retracted.<sup>109</sup> Under Lebanese law, when a private citizen retracts a defamation case, the state must also drop its case.<sup>110</sup>

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<sup>105</sup> Ibid.

<sup>106</sup> Ibid.

<sup>107</sup> Human Rights Watch interview with Hazem Al Amin, co-founder and editor-in-chief of *Daraj*, Beirut, May 8, 2019. The Panama Papers are 11.5 million leaked documents from Mossak Fonseca, a Panamanian law firm, that detail financial information for more than 200,000 offshore entities.

<sup>108</sup> “Journalists assaulted and news website raided in Lebanon in December,” Committee to Protect Journalists, January 7, 2019, <https://cpj.org/2019/01/journalists-assaulted-and-news-website-raided-in-l.php> (accessed May 22, 2019).

<sup>109</sup> Human Rights Watch interview with Hazem Al Amin, Beirut, May 8, 2019.

<sup>110</sup> Rana Saghieh, “Analytical Study of the Judgements in the Publications Court” (دراسة تحليلية للأحكام في قضايا “المطبوعات”), The Legal Agenda, 2014, <http://www.legal-agenda.com/uploads/دراسة%20تحليلية%20للأحكام%20في%20قضايا%20المطبوعات.pdf> (accessed September 18, 2019).

Even questioning whether officials stand to personally gain from their official acts has led to lawsuits. Bechara al-Asmar, the former head of the General Confederation of Lebanese Workers, was sued in January 2019 by a then-minister for slander and libel resulting from statements he made during a talk show on Lebanese television. On the show al-Asmar asked a question that implied that the minister stood to personally profit from a decision made by his ministry.<sup>111</sup> Marcel Ghanem, the show's host, asked whether al-Asmar was accusing the minister of corruption. Al-Asmar replied that he was just posing the question. A month later, on January 9, 2019, al-Asmar was called in for questioning by the Cybercrimes Bureau pursuant to a lawsuit filed against him by the minister. The minister told local media that al-Asmar was damaging his reputation.<sup>112</sup> Al-Asmar said he did not attend the questioning at the Cybercrimes bureau, and as of May 2019, his case was still ongoing in the Publications Court. Al-Asmar told Human Rights Watch:

I did not accuse him. I asked a question. I didn't have information to base an accusation on. If I had committed an act of libel or slander, the judiciary is allowed to go after me. I, however, don't practice slander or libel. I protect the rights of the Lebanese people, the rights of workers in Lebanon. I ask questions. I don't target people's dignity. When we protest in the streets against the government's policies, are we targeting the prime minister? No, we're criticizing the policies.<sup>113</sup>

Hani Nsouli, a Lebanese political commentator, criticized the unfairness in the judiciary's pursuit of people who express themselves peacefully amid widespread impunity for corruption. "If someone commented on something, you treat him like a murderer. In a country like Lebanon, the people in power have bankrupted the country and destroyed the country and they didn't go to prison. You then put someone in prison over a comment," Nsouli said. "In any other country that respects itself those people [that bankrupted the country] would be in prison."<sup>114</sup>

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<sup>111</sup> Human Rights Watch interview with Bechara al-Asmar, former head of the General Confederation of Lebanese Workers, Beirut, April 9, 2019.

<sup>112</sup> Timour Azhari, "ISF to question labor union head over defamation claims," *The Daily Star*, January 10, 2019, <http://www.dailystar.com.lb/News/Lebanon-News/2019/Jan-10/473673-isf-to-question-labor-union-head-over-defamation-claims.ashx> (accessed 25 May 2019).

<sup>113</sup> Human Rights Watch interview with Bechara al-Asmar, Beirut, April 9, 2019.

<sup>114</sup> Human Rights Watch interview with Hani Nsouli, independent political commentator, Beirut, April 3, 2019.

## Reporting Misconduct by Security Agencies

One of the most infamous cases of criminal defamation in Lebanon is that of Hanin Ghaddar, a Lebanese journalist and researcher who was sentenced on January 10, 2018 by the Military Tribunal to six-months imprisonment, in absentia, for defaming the Lebanese Army under Article 157.<sup>115</sup> Ghaddar's sentence arose from comments she made critical of the Lebanese army during a conference in Washington, DC in May 2015. During the question and answer section of her panel, Ghaddar alleged that the Lebanese army differentiates between Shia and Sunni terrorism, and that it has not sufficiently cracked down on the crimes of Shia militias, as the latter are protected by Hezbollah.<sup>116</sup> After outrage about Ghaddar's verdict, on April 10, 2018, the Military Tribunal declared a lack of jurisdiction over this case and referred it to the Publications Court.<sup>117</sup> Ghaddar is not aware of the status of her case before the Publications Court.<sup>118</sup>

However, Ghaddar stated that the message was clear. "This free speech that we enjoyed for a while is over, and we are now back to the pre-2005 era. Only, instead of the Syrian army, we have the Lebanese state," Ghaddar remarked. "Lebanon is good if you want to dance at night and not be involved in politics. Otherwise, it's becoming hell."<sup>119</sup>

In two other cases that sparked outrage among free speech activists in Lebanon, on March 7, 2019, the military judge in Mount Lebanon sentenced TV correspondent Adam Chamseddine and journalist Fidaa Itani in absentia to three months in prison for

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<sup>115</sup> "TWI Expert Hanin Ghaddar, sentenced to prison by Lebanese court, receives global media coverage, outpouring of support from free speech groups," The Washington Institute for Near East Policy, January 23, 2018, <https://www.washingtoninstitute.org/press-room/view/ghaddar-conviction-press-release> (accessed May 9, 2019).

<sup>116</sup> Human Rights Watch interview with Hanin Ghaddar, Researcher at Washington Institute for Near East Policy, Washington, DC, April 18, 2019. See also "Skeyes condemns prison sentence against journalist Hanin Ghaddar," SKeyes Media, January 18, 2018, <http://www.skeyesmedia.org/en/SKeyes-Statements/Lebanon/SKeyes-Condemns-Prison-Sentence-against-Journalist-Hanin-Ghaddar> (accessed May 9, 2019); "Lebanon court orders six-month jail term for journalist," Agence France-Presse, January 18, 2018, <https://www.voanews.com/a/lebanese-court-journalist-jail-term/4213363.html> (accessed May 9, 2019); James Snell, "The absurd sentencing of Lebanese analyst by military court," The Arab Weekly, February 4, 2018, <https://the arabweekly.com/absurd-sentencing-lebanese-analyst-military-court> (accessed May 9, 2019).

<sup>117</sup> Human Rights Watch interview with Brigadier General Hussein Abdallah, April 11, 2019; Court document provided to Human Rights Watch by Brigadier General Hussein Abdallah; Youssef Diab, "Military tribunal drops verdict against journalist," *The Daily Star*, April 10, 2018, <http://www.dailystar.com.lb/News/Lebanon-News/2018/Apr-10/444682-military-tribunal-drops-verdict-against-journalist.ashx> (accessed May 9, 2019).

<sup>118</sup> Human Rights Watch interview with Hanin Ghaddar, Washington, DC, April 18, 2019.

<sup>119</sup> Ibid.

publishing comments offensive to State Security, one of Lebanon’s intelligence agencies, under Article 386 of the Penal Code.<sup>120</sup>

Chamseddine’s sentence arose from a public Facebook post he wrote on October 30 criticizing State Security for allegedly leaking details of an investigation of a detainee who had AIDS.<sup>121</sup> Fidaa Itani shared a social media post about the same case.

Both Chamseddine and Itani were sentenced in absentia. Chamseddine claimed that the court did not give him appropriate legal notice to appear for questioning or in court.<sup>122</sup> Chamseddine appealed the sentence, and Brigadier General Hussein Abdallah, head of the Military Court, referred his case back to the prosecution to transfer the case to the Publications Court.<sup>123</sup> Itani, however, is in self-imposed exile. He has not appealed the military court’s in absentia ruling.

The criminal court has also sentenced Itani to imprisonment and fined him in nine other cases filed against him by a minister on charges of insulting and defaming him. The accumulated prison time from these cases is 22-months imprisonment and 75 million Lebanese liras (\$50,000).<sup>124</sup>

The first case against Itani arose from his Facebook post reacting to the Lebanese army’s operation in Aarsal on June 30, 2017 against Syrian refugees, in which Itani alleged that a young girl was run over by a tank, hundreds were arrested, and some were arbitrarily

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<sup>120</sup> Court document provided to Human Rights Watch by Adam Chamseddine. See also Aya Majzoub, “Military tribunal sentences journalist for criticizing Lebanese security agency,” Human Rights Watch Dispatch, March 11, 2019, <https://www.hrw.org/news/2019/03/11/military-tribunal-sentences-journalist-criticizing-lebanese-security-agency>; “Lebanese journalist sentenced to jail over Facebook post criticizing security services,” Al-Araby, March 8, 2019, <https://www.alaraby.co.uk/english/news/2019/3/8/lebanese-journalist-sentenced-to-jail-over-facebook-post?.it> (accessed May 27, 2019); “Military Tribunal sentences Al-Jadeed correspondent over Facebook post,” *The Daily Star*, March 7, 2019, <http://www.dailystar.com.lb/News/Lebanon-News/2019/Mar-07/478304-military-tribunal-sentences-al-jadeed-correspondent-over-facebook-post.ashx> (accessed May 27, 2019).

<sup>121</sup> Human Rights Watch interview with Adam Chamseddine, Al-Jadeed TV correspondent, Beirut, April 4, 2019.

<sup>122</sup> Human Rights Watch interview with Adam Chamseddine, Beirut, April 4, 2019.

<sup>123</sup> Elham Barjas, “Adam Chamseddine to the military judge: I ask for credit because I defended a vulnerable person against serious violations” ( آدم شمس الدين متوجها للقاضي العسكري: أطلب التهنئة لأنني دافعت عن شخص مستضعف ضد انتهاكات جسيمة ) (بحقه), *The Legal Agenda*, April 12, 2019, <http://www.legal-agenda.com/article.php?id=5457> (accessed May 10, 2019).

<sup>124</sup> Court documents provided to Human Rights Watch by Fidaa Itani, independent journalist, on April 10, 2019.

killed.<sup>125</sup> Human Rights Watch documented violations during that raid which corroborate Itani's allegations.<sup>126</sup> In the post, Itani used derogatory language implying that the state of the country was linked to the minister and the president.<sup>127</sup>

Itani was called in for interrogation to the Cybercrimes bureau, and he spent the night of July 10, 2017 in the bureau's holding cell.<sup>128</sup> During his interrogation, officers from the bureau accused him of insulting the minister.<sup>129</sup> Itani told Human Rights Watch that the intention behind his post was to call out the Lebanese army for killing the people that it had a responsibility to protect. "These raids against refugees cannot go unnoticed. There needs to be accountability," Itani said. "I don't have a personal grievance against anyone ... I only have moral, ethical, and political issues."<sup>130</sup>

Itani was released on July 11, 2017, after which he said he received direct threats on social media. He left Lebanon to seek asylum in the United Kingdom on August 3, 2017.<sup>131</sup>

Itani's case was referred to the Baabda Criminal Court, which sentenced him in absentia on June 27, 2018 to four-months imprisonment for publishing libelous statements against the president under Article 388 and two months for publishing libelous statements against the minister under Article 388, of which he would have to serve the longer sentence were he to return. The court also ordered that Itani pay 10 million Lebanese pounds (\$6,667) as compensation to the minister.<sup>132</sup> "What was especially outrageous was that the judiciary took it upon themselves to add to my conviction "slandering the president," even though that wasn't in [the minister's] lawsuit," Itani told Human Rights Watch.<sup>133</sup>

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<sup>125</sup> Human Rights Watch interview with Fidaa itani, London, April 10, 2019. Itani also provided Human Rights Watch with a screenshot of this post and the court documents resulting from that case.

<sup>126</sup> "Lebanon: Deaths, alleged torture of Syrians in army custody," Human Rights Watch news release, July 20, 2017, <https://www.hrw.org/news/2017/07/20/lebanon-deaths-alleged-torture-syrians-army-custody>

<sup>127</sup> Human Rights Watch interview with Fidaa itani, London, April 10, 2019.

<sup>128</sup> Ibid.

<sup>129</sup> Ibid.

<sup>130</sup> Ibid.

<sup>131</sup> Ibid.

<sup>132</sup> Court ruling issued by the Single Criminal Judge in Baabda on June 27, 2018.

<sup>133</sup> Human Rights Watch interview with Fidaa itani, London, April 10, 2019.

All the eight subsequent criminal cases filed against Itani by the minister related to public Facebook posts Itani made using the same phrase to blame the minister for corruption and misconduct in the country.<sup>134</sup> In all of these cases, the criminal court sentenced Itani in absentia to two-months imprisonment for insulting the minister under Article 383 and fined under Articles 584 and 582 pertaining to slander and libel.<sup>135</sup> In all cases, the courts also awarded the minister compensation for the damages he sustained.<sup>136</sup>

General Security filed a defamation complaint against Makram Rabbah, a Lebanese academic, and Shadi Azzam, a Syrian activist, for comments that they made during a conference on June 15, 2019 organized by the research organization, UMAM Documentation and Research, about Syrian refugees in Lebanon.<sup>137</sup> Shadi Azzam told Human Rights Watch that the Central Criminal Investigations Office summoned him for questioning on August 22, 2019, where the officer accused him of insulting General Security and other prominent politicians in the country, including by disputing the figures released by General Security about Syrian refugee returns from Lebanon to Syria.<sup>138</sup> Azzam denied those allegations, insisting that the comments he had made were not meant to be insulting, but were based on information available in the public domain and on research conducted by credible research institutes.<sup>139</sup> After his interrogation, Azzam wrote on his Facebook page, “I am a human rights activist and I work for a peacebuilding organization whose main objectives are to strengthen the rule of law and human security ... It is imperative that General Security and all stakeholders are working towards one cause, which is to preserve peace, prevent extremism, and fight terrorism, not to insult.”<sup>140</sup>

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<sup>134</sup> Ibid.

<sup>135</sup> Court documents reviewed by Human Rights Watch.

<sup>136</sup> Ibid.

<sup>137</sup> “Investigations Office interrogates writer Makram Rabbah and Syrian activist Shadi Azzam after a complaint by General Security” (المباحث تُحَقِّق مع الكاتب مكرم رباح والناشط السوري شادي عزام على خلفية إخبار من الأمن العام), SKeyes Media, August 23, 2019, <http://www.skeyesmedia.org/ar/News/Lebanon/7986> (accessed September 18, 2019).

<sup>138</sup> Human Rights Watch interview with Shadi Azzam, Syrian activist, Beirut, August 28, 2019.

<sup>139</sup> Ibid.

<sup>140</sup> “Investigations Office interrogates writer Makram Rabbah and Syrian activist Shadi Azzam after a complaint by General Security” (المباحث تُحَقِّق مع الكاتب مكرم رباح والناشط السوري شادي عزام على خلفية إخبار من الأمن العام), SKeyes Media, August 23, 2019, <http://www.skeyesmedia.org/ar/News/Lebanon/7986> (accessed September 18, 2019).

## Expressing Political Opinions and Discontent

Criminal defamation charges have also been initiated against individuals who have expressed their political opinions or general discontent with the declining socioeconomic situation in the country, and in doing so, offended a public official or party member. A former aide of the prime minister, has filed criminal defamation charges against at least two individuals for their political opinions and analysis that he deemed to have insulted him or his reputation.

Hani Nsouli, a well-known political commentator, sent a voice note on WhatsApp in August 2018 to a private group of around 200 politically-active Beirut residents commenting on a photo of that individual that appeared in the news showing him in the company of individuals associated with an opposing political camp.<sup>141</sup> In the voice note, which Human Rights Watch reviewed, Nsouli expressed his surprise and displeasure and made comments about what he saw as the photo's implications for the Sunni interests in Lebanon. Nsouli said that an official called him from the Central Criminal Investigations Office of the ISF on September 17, 2018 summoning him for investigation but declining to give him a reason. During Nsouli's seven-hour interrogation on September 19, 2018, he said he was told that the individual had filed a lawsuit against him under Article 582 (slander), Article 317 (inciting sectarian tensions), and Articles 288 and 292 (disturbing Lebanon's relations with a brotherly state).<sup>142</sup>

Nsouli rejected the charges. "This is a political opinion, not a personal insult. I'm talking politics," he told Human Rights Watch. "And the charge that I'm inciting sectarian tensions is silly. On the contrary, I am criticizing those who are doing that."<sup>143</sup>

At the end of his interrogation, Nsouli pledged that as long as that individual is not working in a public position, he will not take a political opinion towards him.<sup>144</sup> After signing the pledge Nsouli said he was under the impression that the case was closed, and so he was surprised when he received a summons to the criminal court in Beirut a month

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<sup>141</sup> Human Rights Watch interview with Hani Nsouli, independent political commentator, Beirut, April 3, 2019.

<sup>142</sup> Ibid.; Lawsuit filed against Hani Nsouli, September 5, 2018, copy provided to Human Rights Watch by Hani Nsouli.

<sup>143</sup> Human Rights Watch interview with Hani Nsouli, Beirut, April 3, 2019.

<sup>144</sup> Ibid.; Interrogation report provided to Human Rights Watch by Hani Nsouli.

later for charges of slandering that person. The charges relating to inciting sectarian tensions and disturbing Lebanon's relations with a brotherly state were dropped.

Nsouli was told by a close associate of the prime minister's former aide that if he apologized publicly, the latter would withdraw the lawsuit. "I would prefer to go to prison rather than apologize," Nsouli said. "Free speech is what distinguishes humans from animals."<sup>145</sup>

The same former aide also sued Ahmad Ayoubi, a journalist and secretary general of the Civil Islamic Coalition, a moderate Islamic civil society group calling for better governance and the rule of law, for defamation. On November 12, 2017, Ayoubi wrote an article in an online publication about the political ramifications of a deal between that individual and a member of the opposing political camp. In the article, Ayoubi alleged that both parties stood to profit financially from such a deal.<sup>146</sup> In a separate public Facebook post in November, Ayoubi criticized the president and the foreign minister.<sup>147</sup>

A few days after the article's publication, Ayoubi received a call from the Central Criminal Investigations Office summoning him for a defamation investigation but declining to tell him who had filed the charges. During his four-hour investigation on November 16, 2017, Ayoubi said he discovered that the former aide had filed charges under three articles: slander and libel, insulting a brotherly state, and insulting the president.<sup>148</sup> According to Ayoubi, the prosecutor dismissed the second and third charges.<sup>149</sup> The interrogator asked

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<sup>145</sup> Human Rights Watch interview with Hani Nsouli, Beirut, April 3, 2019.

<sup>146</sup> Ahmad Ayoubi, "Who did Sabhan mean in his Tweet about "he who sold the Lebanese and incites against us"" (من قصد «الذي باع اللبنانيين ويحرض علينا»)، Janoubia, November 12, 2017, <http://janoubia.com/2017/11/12/%D9%85%D9%86-%D9%82%D8%B5%D8%AF-%D8%A7%D9%84%D8%B3%D8%A8%D9%87%D8%A7%D9%86-%D9%81%D9%8A-%D8%AA%D8%BA%D8%B1%D9%8A%D8%AF%D8%AA%D9%87-%D8%B9%D9%86-%D8%A7%D9%84%D8%B0%D9%8A-%D8%A8%D8%A7%D8%B9-%D8%A7/> (accessed May 29, 2019).

<sup>147</sup> Salwa Fadel, "Daou's comment on the continued arrest of Ayoubi: a new social system" (ضوءٌ تعليفاً على استمرار توقيف) (الأيوبي: نظام «عضومي» جديد), Janoubia, November 18, 2017, <http://janoubia.com/2017/11/18/%D8%B6%D9%88%D9%91-%D8%AA%D8%B9%D9%84%D9%8A%D9%82%D8%A7-%D8%B9%D9%84%D9%89-%D8%A7%D8%B3%D8%AA%D9%85%D8%B1%D8%A7%D8%B1-%D8%AA%D9%88%D9%82%D9%8A%D9%81-%D8%A7%D9%84%D8%A3%D9%8A%D9%88%D8%A8%D9%8A-%D9%86/> (accessed May 29, 2019).

<sup>148</sup> Human Rights Watch interview with Ahmad Ayoubi, journalist and secretary-general of the Civil Islamic Coalition, Tripoli, April 25, 2019.

<sup>149</sup> Ibid.

Ayoubi to pledge not to insult that individual, which he refused to do. “I will hold on to my political opinions, which are more important than personal insults,” Ayoubi said.<sup>150</sup>

Ayoubi said that when it became apparent that he was not going to sign the pledge, he was arrested and held in pretrial detention for 13 days in squalid conditions before being released on bail on November 28, 2017.<sup>151</sup> Responding to Ayoubi’s detention, General Ashraf Rifi, the former general director of the Internal Security Forces and former minister of justice tweeted: “the arrest of journalist Ahmad Ayoubi is an example of the practices of a security state that we will not accept to revive, and it is an attack on public freedoms and the media.”<sup>152</sup>

Ayoubi’s case was subsequently referred to the Publications Court. However, Ayoubi told Human Rights Watch on April 25, 2019 that the former aide’s lawyers have agreed to withdraw the case.<sup>153</sup>

In another such case, activist and journalist Mohammad Awwad was apprehended from his home on July 20, 2018 by an armed unit who Awwad said identified themselves as members of the General Security’s Information Branch after he published an article about “pack mentality” in Lebanon.<sup>154</sup> General Security is the agency responsible for the exit and entry of foreigners into the country, and are not usually involved in arrests or interrogations of citizens for speech-related crimes. In his article published on June 9, 2018 in *Marsad*

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<sup>150</sup> Ibid.

<sup>151</sup> “Ahmad Ayoubi released on bail,” *National News Agency*, November 28, 2017, <http://nna-leb.gov.lb/en/show-news/85961/Ahmad-Ayoubi-released-on-bail> (accessed May 29, 2019); Human Rights Watch interview with Ahmad Ayoubi, Tripoli, April 25, 2019.

<sup>152</sup> “Rifi: The arrest of Ayoubi is an example of the practices of a police state” (ريفي: توقيف الأيوبي نموذج لممارسات دولة أمنية), Janoubia, November 17, 2017, <http://janoubia.com/2017/11/17/%D8%B1%D9%8A%D9%81%D9%8A-%D8%AA%D9%88%D9%82%D9%8A%D9%81-%D8%A7%D9%84%D8%A3%D9%8A%D9%88%D8%A8%D9%8A-%D9%86%D9%85%D9%88%D8%B0%D8%AC-%D9%84%D9%85%D9%85%D8%A7%D8%B1%D8%B3%D8%A7%D8%AA-%D8%AF%D9%88%D9%84/> (accessed May 29, 2019).

<sup>153</sup> Human Rights Watch interview with Ahmad Ayoubi, Tripoli, April 25, 2019.

<sup>154</sup> Human Rights Watch interview with Mohammad Awwad, political activist, Beirut, April 18, 2019; “The arrest of political activist Mohammad Awwad due to his political opposition to Hezbollah – an era of the repression of freedoms and thinking terrorism” (اعتقال الناشط السياسي محمد عواد بسبب معارضته سياسة حزب الله... زمن قمع الحريات والارهاب الفكري), *Marsad News*, July 20, 2018, <https://marsadnews.net/%D9%84%D8%A8%D9%86%D8%A7%D9%86/%D8%A7%D8%B9%D8%AA%D9%82%D8%A7%D9%84-%D8%A7%D9%84%D9%86%D8%A7%D8%B4%D8%B7-%D8%A7%D9%84%D8%B3%D9%8A%D8%A7%D8%B3%D9%8A-%D9%85%D8%AD%D9%85%D8%AF-%D8%B9%D9%88%D8%A7%D8%AF-%D8%A8%D8%B3%D8%A8%D8%A8-%D9%85/> (accessed May 29, 2019).

*News*, Awwad explains his reasoning behind people’s willingness to die to for Hezbollah despite this sacrifice going against human nature.<sup>155</sup> During his interrogation, officers from General Security searched Awwad’s laptop and phone and inquired about his political views and opposition to Hezbollah and Amal.<sup>156</sup> An officer then asked him to sign a pledge not to insult sectarian leaders and incite sectarian tension, or else he would have to spend the weekend at General Security. “I told them that I will sign this paper because it has no legal bearing,” Awwad told Human Rights Watch.<sup>157</sup> Awwad was released around five hours after his arrest.<sup>158</sup>

Awwad thinks that he was apprehended in this aggressive way not due to the article he wrote, but due to his anti-Hezbollah political opinions and other writings.<sup>159</sup> Remarking about his experience, Awwad said “these things only happen in movies.”<sup>160</sup>

Public displays of anger and discontent have also resulted in arrest. Eighty-year-old Daoud Moukheiber was arrested a day after a video of him protesting the government’s decision to install high-voltage power lines through his town proliferated on social media.<sup>161</sup> The town’s residents had been protesting the government’s installation of the power lines for weeks, which they fear pose significant health risks, and the government, at times, has responded with force.<sup>162</sup>

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<sup>155</sup> Mohammad Awwad, “What after death?” (ماذا بعد الموت؟), Marsad news, June 9, 2018, <https://marsadnews.net/%D8%A7%D9%84%D8%B4%D8%B1%D9%82-%D8%A7%D9%84%D8%A7%D9%88%D8%B3%D8%B7/%D9%85%D8%A7%D8%B0%D8%A7-%D8%A8%D8%B9%D8%AF-%D8%A7%D9%84%D9%85%D9%88%D8%AA-%D8%9F/> (accessed May 29, 2019).

<sup>156</sup> Human Rights Watch interview with Mohammad Awwad, Beirut, April 18, 2019.

<sup>157</sup> Ibid.

<sup>158</sup> Ibid.

<sup>159</sup> Ibid.

<sup>160</sup> Ibid.

<sup>161</sup> “The scream of Daoud Moukheiber in the face of ‘today’s fraudsters’” (صرخة داود مخيبر في وجه “زعران آخر زمان”), Al Modon, May 8, 2019,

<https://www.almodon.com/media/2019/5/8/%D8%B5%D8%B1%D8%AE%D8%A9-%D8%AF%D8%A7%D9%88%D8%AF-%D9%85%D8%AE%D9%8A%D8%A8%D8%B1-%D9%81%D9%8A-%D9%88%D8%AC%D9%87-%D8%B2%D8%B9%D8%B1%D8%A7%D9%86-%D8%A2%D8%AE%D8%B1-%D8%B2%D9%85%D8%A7%D9%86> (accessed June 2, 2019).

<sup>162</sup> See for example “Mansourieh protests escalate as high-level meeting fails to find solution,” *The Daily Star*, May 9, 2019, <http://www.dailystar.com.lb/News/Lebanon-News/2019/May-09/482747-mansourieh-residents-protest-for-3rd-day-as-security-forces-block-church.ashx> (accessed June 2, 2019); “Mansourieh residents briefly block road over plans for high-voltage cables,” *The Daily Star*, April 10, 2019, <http://www.dailystar.com.lb/News/Lebanon-News/2019/Apr-10/169780-mansourieh-residents-briefly-block-road-over-plans-for-high-voltage-cables.ashx> (accessed June 2, 2019).

During a protest on May 7, 2019, Moukheiber was captured on video expressing his discontent using strong language against the president and two ministers, who are all members of the same political party. Many felt that Moukheiber's outburst captured the public's anger and disillusionment with the government's encroachment on their basic rights, so the video spread rapidly.<sup>163</sup> The next day, videos shared on public social media platforms show Moukheiber being handcuffed and arrested by security forces.<sup>164</sup> Samer Saade, a Lebanese political activist, tweeted: "Daoud Moukheiber to the prison of freedom, in the state of the muzzling of mouths. How strong you [government officials] are to fear the criticism of the free and the oppressed."<sup>165</sup>

## Exposing Abuse against Vulnerable Populations

Exposing abuse against vulnerable populations has also led to criminal defamation charges. In one case that garnered significant local and international attention, several newspapers, as well as Human Rights Watch, were instructed by a prosecutor to take down their reporting on the alleged abuse of a migrant domestic worker in Lebanon pursuant to a defamation case filed by the worker's employers.

Human Rights Watch and Lebanese human rights organizations routinely document credible reports of abuses against migrant domestic workers in Lebanon,

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<sup>163</sup> See for example "The scream of Daoud Moukheiber in the face of 'today's fraudsters" (صرخة داود مخيبر في وجه "زعران") (آخر زمان), Al Modon, May 8, 2019,

<https://www.almodon.com/media/2019/5/8/%D8%B5%D8%B1%D8%AE%D8%A9-%D8%AF%D8%A7%D9%88%D8%AF-%D9%85%D8%AE%D9%8A%D8%A8%D8%B1-%D9%81%D9%8A-%D9%88%D8%AC%D9%87-%D8%B2%D8%B9%D8%B1%D8%A7%D9%86-%D8%A2%D8%AE%D8%B1-%D8%B2%D9%85%D8%A7%D9%86> (accessed June 2, 2019); "Who is stronger in your opinion, the reign of Michel Aoun or Daoud Moukheiber?" (من هو القوي برأيك عهد ميشال عون أم داود مخيبر؟) (New Lebanon, May 17, 2019, <https://www.newlebanon.info/lebanon-now/407839/84-%D9%85%D9%86-%D8%A7%D9%84%D9%84%D8%A8%D9%86%D8%A7%D9%86%D9%8A%D9%8A%D9%86-%D9%8A%D8%B1%D9%88%D9%86-%D8%A3%D9%86-%D8%AF%D8%A7%D9%88%D8%AF-%D9%85%D8%AE%D9%8A%D8%A8%D8%B1-%D9%87%D9%88-%D8%A7%D9%84%D8%A3%D9%82%D9%88%D9%89> (accessed June 2, 2019).

<sup>164</sup> "The arrest of citizen Daoud Moukeiber resulting from his speech about Aoun, Bassil, and Boustani in Mansourieh"

(توقيف المواطن داود مخيبر اثر كلامه عن عون وباسيل والبستاني في المنصورية), *Annahar*, May 8, 2019, <https://www.annahar.com/article/969539-%D8%AA%D9%88%D9%82%D9%8A%D9%81-%D8%A7%D9%84%D8%B1%D8%AC%D9%84-%D8%A7%D9%84%D8%B0%D9%8A-%D8%AA%D9%88%D8%AC%D9%87-%D8%A8%D9%83%D9%84%D8%A7%D9%85-%D9%82%D8%A7%D8%B3-%D9%84%D8%B9%D9%88%D9%86-%D9%88%D8%A8%D8%A7%D8%B3%D9%8A%D9%84-%D9%88%D8%A7%D9%84%D8%A8%D8%B3%D8%AA%D8%A7%D9%86%D9%8A-%D9%81%D9%8A-%D8%A7%D9%84%D9%85%D9%86%D8%B5%D9%88%D8%B1%D9%8A%D8%A9> (accessed June 2, 2019).

<sup>165</sup> Post of Samer Saade on Twitter, May 8, 2019, [https://twitter.com/samer\\_saade/status/1126197691871109120](https://twitter.com/samer_saade/status/1126197691871109120) (accessed June 2, 2019).

including nonpayment of wages, forced confinement, refusal to provide time off, and verbal and physical abuse.<sup>166</sup> In 2008, Human Rights Watch found that migrant domestic workers were dying at a rate of one per week, with suicide and attempted escapes the leading causes of death.<sup>167</sup> Human Rights Watch has also found that Lebanon's judiciary fails to hold employers accountable for abuses and that security agencies often did not adequately investigate claims of violence or abuse.<sup>168</sup>

In a video posted to social media on March 26, 2018 by the organization This is Lebanon, Lelisa Lelisa, an Ethiopian national, detailed specific allegations of consistent abuse at the hands of her employer which led her to jump from a balcony and injure herself in an effort to escape.<sup>169</sup> Lelisa returned to the home after a few days, and recanted, saying she fell off the balcony and made up the story because she wanted to leave Lebanon.<sup>170</sup> Human Rights Watch reported on the incident in April 6, 2018, urging Lebanon's general prosecutor to ensure an adequate investigation into Lelisa's allegations of abuse and protect her from any possible retaliation.<sup>171</sup>

On June 18, 2018, Human Rights Watch received a letter from the Acting Head of the Cybercrimes Bureau, Captain Information Engineer Ayman Taj al-Din, instructing that the press release on Lelisa's case be removed as per the instructions of the Attorney General of the Appeals Court in Mount Lebanon, Justice Rami Abdullah. This order was pursuant to a defamation lawsuit filed by Lelisa's employers against This is Lebanon.<sup>172</sup>

Four Lebanese lawyers advised Human Rights Watch that the instruction cannot be appealed because it is a prosecutor's instruction and not a court order. The letter Human Rights Watch received from the Cybercrimes Bureau did not include the legal basis for the

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<sup>166</sup> "Lebanon: Stop abuse of domestic workers," Human Rights Watch news release, March 23, 2012, <https://www.hrw.org/news/2012/03/23/lebanon-stop-abuse-domestic-workers>.

<sup>167</sup> "Lebanon: Migrant domestic workers dying every week," Human Rights Watch news release, August 26, 2008, <https://www.hrw.org/news/2008/08/26/lebanon-migrant-domestic-workers-dying-every-week>.

<sup>168</sup> Human Rights Watch, "Without Protection – How the Lebanese Justice System Fails Migrant Domestic Workers," September 16, 2010, <https://www.hrw.org/report/2010/09/16/without-protection/how-lebanese-justice-system-fails-migrant-domestic-workers>.

<sup>169</sup> "Lebanon: Migrant workers' abuse account," Human Rights Watch news release, April 6, 2018, <https://www.hrw.org/news/2018/04/06/lebanon-migrant-workers-abuse-account>.

<sup>170</sup> Ibid.

<sup>171</sup> Ibid.

<sup>172</sup> Letter from the Internal Security Forces to Human Rights Watch, June 11, 2018.

instruction or the text of the instruction itself. This was the first time a security agency or prosecutor has instructed Human Rights Watch in Lebanon to take down any content.

On June 27, 2018 Human Rights Watch wrote to the prosecutor who issued the instruction and to the Cybercrimes Bureau asking for a copy of the instruction and its legal basis. In its letter, Human Rights Watch asked the prosecutor to reconsider the instruction because it may violate Lebanon's human rights obligations under international law, disproportionately restrict Human Rights Watch's ability to freely and accurately report on human rights in Lebanon, and violate the right of the people of Lebanon to freely access information. In response, the prosecutor told Human Rights Watch's legal counsel in Lebanon on July 2, 2018 that it did not need to remove the press release, since Human Rights Watch had already removed a now-dead link to the video posted by This is Lebanon.

Other publications in Lebanon have received similar takedown instructions from the prosecutor, including *L'Orient le Jour*<sup>173</sup> and *The Legal Agenda*.<sup>174</sup> Some publications have not complied with the instruction, while others, such as *The Daily Star* and the Lebanese Broadcasting Company (LBC), have taken down stories covering the allegations.

Journalist Anne-Marie el-Hage, who covered Lelisa's allegations for *L'Orient le Jour*, said that the Cybercrimes Bureau called the newspaper on June 8, 2018 and asked the editor-in-chief to remove El Hage's article as per an order from the prosecutor and summoned El Hage for investigation. El Hage's lawyer advised her not to attend the investigation due to a "gentleman's agreement" between the Order of Journalists and the Public Prosecutor's office stating that journalists should not be interrogated by security agencies, but by investigative judges.<sup>175</sup> El Hage also told Human Rights Watch that there was an editorial decision at *L'Orient le Jour* not to take down the article in order to avoid setting a

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<sup>173</sup> "مكتب "جرائم المعلوماتية" (Cybercrimes Bureau summons journalist Anne-Marie el-Hage because of a news report" (يستدعي الصحفي أن ماري الحاج بسبب تقرير صحفي), SKeyes Media, June 18, 2018, <http://www.skeyesmedia.org/ar/news/lebanon/7244> (accessed June 6, 2019).

<sup>174</sup> Nizar Saghieh, "Lensa's case, no place for an alternative to the official story: when the public prosecutor stifles voices" (فضيحة لينسل، لا مكان لغير الرواية الرسمية: حين تصبح النيابة العامة كاتما للصوت), *The Legal Agenda*, June 22, 2018, <http://legal-agenda.com/article.php?id=4589> (accessed June 6, 2019).

<sup>175</sup> Human Rights Watch interview with Anne-Marie El Hage, journalist at *L'Orient Le Jour*, Beirut, May 17, 2019.

precedent by giving in to an injunction without a court order.<sup>176</sup> “I am not insulting anybody,” El Hage insisted. “I am working for human rights.”<sup>177</sup>

The English-language newspaper, *The Daily Star*, however, decided to remove its article reporting on Lelisa’s allegations of abuse after Timour Azhari, the reporter who wrote the story, was interrogated by officials at the Cybercrimes bureau for eight hours on June 7, 2018. Azhari told Human Rights Watch that the interrogator accused him of actively working to defame Lelisa’s employers and considered any evidence presented by This is Lebanon as unreliable, as the organization was “defaming the entire country.”<sup>178</sup>

During his interrogation, Azhari said an officer verbally threatened him, confiscated his phone, and read its contents. Azhari said the interrogator obtained the name and contact details of his anonymous source and instructed him to take down a Tweet linking to the article and another showing a video of a protest that took place outside the employer’s shop, referencing a judge’s order.<sup>179</sup> It is likely that the interrogator was referring to the prosecutor’s injunction, which was received by *L’Orient le Jour* since there was no court order. The interrogators asked Azhari to sign a pledge that he would not comment on Lelisa’s case anymore, to which he agreed.<sup>180</sup> Despite doing so, his case was still ongoing in the criminal courts as of July 2019.

Azhari said that as a Lebanon reporter for *The Daily Star*, it is his job to cover all stories, but especially ones that have a wider social impact, and he continues to report on allegations of abuse against migrant domestic workers:

When I saw the video of Lensa alleging abuse from her hospital bed, it really struck me. Often, migrant domestic workers die after jumping off buildings or are able to escape and so don’t publicize their ordeal. It is very rare to have that kind of thing recorded. The courage that it took to do that, I just had to report on it. This video showed that the abuse was happening to the

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<sup>176</sup> Ibid.

<sup>177</sup> Ibid.

<sup>178</sup> Human Rights Watch interview with Timour Azhari, reporter for *The Daily Star*, Beirut, April 5, 2019.

<sup>179</sup> Ibid.

<sup>180</sup> Ibid.

most powerless people in Lebanon who are employed under a system that strips them of the rights that we all enjoy. I saw an opportunity to contribute to the conversation about the way that hundreds of thousands of people are treated in Lebanon.<sup>181</sup>

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<sup>181</sup> Ibid.

## V. Violations and Bias in the Enforcement of Criminal Defamation Laws

As the preceding chapter demonstrated, defamation laws in Lebanon criminalize peaceful speech that is vital for the proper functioning of a democratic society. In addition, in the cases that Human Rights Watch investigated, the authorities behaved in ways that suggested bias and ulterior motives. The laws were applied selectively, investigating agencies failed to follow standard procedures and violated legal safeguards, and the judiciary failed to apply international human rights standards on freedom of expression. These examples illustrate the potential for misuse of criminal defamation law as a tool for retaliation and repression rather than as a mechanism for redress where genuine injury has occurred.

### Selective Investigations and Arrests

Human Rights Watch's research suggests that prosecutors are applying Lebanon's criminal defamation laws selectively in ways that further the interests of powerful political and religious actors. Prosecutors and security agencies often do not follow a standard process in criminal defamation cases, further exacerbating the law's selective application and giving public officials increased discretion in the way these cases are handled.

The selective nature of the prosecution was evident in the case of popular indie band, Mashrou' Leila, that has gained worldwide acclaim for tackling pressing social issues in the Arab world and speaking out against oppression, corruption, and homophobia. The band was slated to perform at a music festival in Lebanon on August 9, 2019. On July 22, a lawyer affiliated with religious groups filed a complaint with the public prosecution accusing Mashrou' Leila of insulting religious rituals and inciting sectarian tensions through their social media posts and song lyrics. This prompted powerful religious groups to call for the concert's cancellation, and many Internet users threatened the band with violence if the concert went ahead.<sup>182</sup>

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<sup>182</sup> "Lebanon: Festival Cancels Mashrou' Leila Concert," Human Rights Watch news release, July 31, 2019, <https://www.hrw.org/news/2019/07/31/lebanon-festival-cancels-mashrou-leila-concert>.

The prosecution summoned some of the band's members for interrogation two days after the complaint and subjected them to six hours of questioning at State Security, after which officers forced them to sign a pledge to censor content on their social media accounts.<sup>183</sup> Yet, the prosecution has yet to act on a complaint filed by 11 rights groups on July 30 asking the authorities to investigate the widespread threats against Mashrou' Leila on social media, including incitement to violence and death threats.<sup>184</sup>

The case of Charbel Khoury further demonstrates this trend. Khoury was sued by a powerful Christian group and interrogated by the Cybercrimes Bureau on July 20, 2018 in connection with a sarcastic Facebook post containing a joke about a Christian saint. Khoury received violent threats on social media after his post, with some individuals threatening to murder him and rape him.<sup>185</sup> He also said that a former colleague physically assaulted him at his workplace.<sup>186</sup> Yet, according to Khoury, none of those individuals were investigated, including his former colleague, against whom Khoury filed a complaint.<sup>187</sup>

“On one level, you have a person or two people held accountable by authorities for expressing their opinion. On the other hand, you have cases that are clear violations of the law: threatening, calling for murder and rape – these are crimes. Not seeing any action taken toward these people is even more outrageous,” Ayman Mhanna, executive director of the Samir Kassir Foundation, told local media after Khoury's interrogation.<sup>188</sup>

The lack of a standard process by which the criminal defamation cases are being handled by security agencies also increase the perception that arrests and interrogations are intended to protect the interests of powerful individuals rather than provide redress where

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<sup>183</sup> “Decision to Release Members of Mashrou' Leila Band” (قرار بتخليفة سبيل أعضاء فرقة مشروع ليلي), National News Agency, July 24, 2019, <http://nna-leb.gov.lb/ar/show-news/423538/nna-leb.gov.lb/ar> (accessed September 18, 2019).

<sup>184</sup> “Lebanon: Festival Cancels Mashrou' Leila Concert,” Human Rights Watch news release, July 31, 2019, <https://www.hrw.org/news/2019/07/31/lebanon-festival-cancels-mashrou-leila-concert>.

<sup>185</sup> “Assault on the young man Charbel Khoury after threats to him and journalist Joy Slim due to a Facebook post” (الاعتداء على الشاب شربل خوري بعد تهديده والصحافية جوي سليم بسبب منشور على “فيسبوك”), *SKeyes*, July 18, 2018, <http://www.skeyesmedia.org/ar/News/Lebanon/7298> (accessed June 6, 2019).

<sup>186</sup> Human Rights Watch interview with Charbel Khoury, Beirut, April 17, 2019.

<sup>187</sup> *Ibid.*

<sup>188</sup> “Journalist briefly detained over online posts,” *The Daily Star*, July 21, 2018, <https://www.dailystar.com.lb/News/Lebanon-News/2018/Jul-21/457356-journalist-briefly-detained-over-online-posts.ashx> (accessed June 7, 2019).

injury has occurred. Some experts have remarked that these contradictions are the result of interagency fighting.<sup>189</sup> Others have claimed that since each security agency is informally under the influence of a political party, party officials have used the agency loyal to them to intimidate critics.<sup>190</sup>

Awwad claimed that a Hezbollah official activated his network within General Security to detain him, despite the agency, which is responsible for the entry and exit of foreigners, not being usually involved in arrests relating to defamation.<sup>191</sup> After his release, he was told that his arrest was a “mistake” from someone in the agency.<sup>192</sup> Similarly, Walid Radwan noted that every security branch belongs to a party. Therefore, when he was arrested by the Internal Security Forces’ (ISF) Information Branch, he said he knew that the Future Movement was behind the arrest.<sup>193</sup> Radwan also noted that an official from the party video-conferenced into the interrogation, gave the interrogator direct orders, and asked to witness the interrogation.<sup>194</sup>

In some instances, security agencies conducted investigations on cases that should not have been in their jurisdiction and took measures that were not authorized by a judicial order. For example, although the Cybercrimes Bureau investigated most of the cases related to defamation on online platforms, Human Rights Watch documented some online speech cases that were handled by other security agencies. Both Hani Nsouli and Ahmad Ayoubi were called in for investigation at the ISF’s Central Criminal Investigations Office, despite their alleged defamatory statements appearing on WhatsApp and an online newspaper and Facebook, respectively.<sup>195</sup> Walid Radwan, a businessman from Tripoli, was brought into the ISF’s Information Branch in Tripoli for allegedly insulting comments that

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<sup>189</sup> Human Rights Watch interview with George Ghali, Executive Director of ALEF, Beirut, April 17, 2019.

<sup>190</sup> Human Rights Watch interview with Mohammad Awwad, Beirut, April 18, 2019; Human Rights Watch interview with Walid Radwan, Tripoli, April 25, 2019.

<sup>191</sup> Lebanese Code of Criminal Procedure, Article 47.

<sup>192</sup> Human Rights Watch interview with Mohammad Awwad, Beirut, April 18, 2019.

<sup>193</sup> Human Rights Watch interview with Walid Radwan, Tripoli, April 25, 2019.

<sup>194</sup> Ibid.

<sup>195</sup> Human Rights Watch interview with Hani Nsouli, Beirut, April 3, 2019; Human Rights Watch interview with Ahmad Ayoubi, Tripoli, April 25, 2019.

he made on his public Facebook page.<sup>196</sup> Mohammad Awwad was arrested by General Security after writing an article critical of Hezbollah online.<sup>197</sup>

In addition, in some cases, the Cybercrimes Bureau was tasked with investigating defamation that occurred in traditional media. For example, the bureau called Bechara al-Asmar in for questioning after he made remarks critical of a minister on a television show. Both Timour Azhari and Anne-Marie el-Hage were also summoned by the bureau despite the alleged defamatory content appearing in licensed print newspapers in Lebanon.<sup>198</sup>

Some evidence also suggests that prosecutors did not always follow standard procedures in filing charges against individuals and summoning them in for investigation, and behaved in other ways that suggest bias. The Cybercrimes Bureau called Wadih al-Asmar, President of the Lebanese Center for Human Rights (CLDH), in for investigation on August 16, 2018 after he publicly shared a Facebook post containing a joke that a religious institution deemed to be insulting to religion.<sup>199</sup> Al-Asmar attended his investigation on August 31, 2018 at the Cybercrimes Bureau, where he remained silent.<sup>200</sup> When al-Asmar received the documentation relating to his case, he noted that the religious group that filed the lawsuit against him had submitted their complaint on August 30, 2018 – several days after he had been called in for investigation.<sup>201</sup> Al-Asmar thinks that the mismatch in dates may suggest cooperation between the prosecution and powerful religious authorities.<sup>202</sup>

## Procedural Irregularities and Legal Violations

Human Rights Watch noted procedural irregularities at every stage of the investigation in the 34 criminal defamation cases it documented. The prosecution and the security agencies often did not follow standard procedures, and in many instances expressly violated the law. Interviewees said that interrogators used tactics that were often

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<sup>196</sup> Human Rights Watch interview with Walid Radwan, Tripoli, April 25, 2019.

<sup>197</sup> Human Rights Watch interview with Mohammad Awwad, Beirut, April 18, 2019.

<sup>198</sup> Human Rights Watch interview with Anne-Marie El Hage, Beirut, May 17, 2019; Human Rights Watch interview with Timour Azhari, Beirut, April 5, 2019.

<sup>199</sup> Human Rights Watch interview with Wadih al-Asmar, Europe, May 8, 2019.

<sup>200</sup> Ibid.

<sup>201</sup> Ibid.

<sup>202</sup> Ibid.

physically or psychologically violent, and on some occasions violated their privacy. Interrogating agencies also asked many individuals to sign pledges vowing not to insult their accuser in the future or to remove the defamatory content from their social media accounts. Such measures violate the defendants' rights to free speech and right to a fair trial.

### *Aggressive Arrests: "As If They Caught Abu Bakr Al Baghdadi"*

Many individuals sued for defamation were arrested aggressively by armed guards in ways that are vastly disproportionate to their alleged crime. On December 10, 2018, uniformed ISF police officers raided *Daraj's* office and arrested its co-founder and editor-in-chief, Hazem al-Amin. That morning, an ISF investigator visited the office in connection with a lawsuit over *Daraj's* allegations of corruption against a relative of a leading politician. The lawsuit, however, had already been dropped.<sup>203</sup> Shortly after al-Amin refused to answer the investigator's questions, insisting that he would only do so in the presence of a lawyer, and he left, al-Amin said three ISF cars and around 10 police officers armed "as if they were ready for a military operation" stormed the office.<sup>204</sup> They handcuffed al-Amin, put him in the police car, and drove him to the Verdun police station, declining to tell him the reason for the arrest and merely stating that they were acting on orders from the public prosecutor. "The way they were driving in the street, with the sirens and the convoy, it's as if they caught Abu-Bakr Al-Baghdadi [the Islamic State leader]," al-Amin told Human Rights Watch.<sup>205</sup>

At the Verdun police station, the investigator admitted that the case had been withdrawn and released al-Amin shortly after.<sup>206</sup> Commenting about the incident on his Facebook page, al-Amin wrote, "We at *Daraj* respect the right of any victim from any material we publish to resort to the judiciary, but what happened today resembles the methods of

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<sup>203</sup> Human Rights Watch interview with Hazem el Amine, Beirut, May 8, 2019; "Journalists assaulted and news website raided in Lebanon in December," Committee to Protect Journalists, January 7, 2019, <https://cpj.org/2019/01/journalists-assaulted-and-news-website-raided-in-l.php> (accessed May 22, 2019).

<sup>204</sup> Human Rights Watch interview with Hazem el Amin, Beirut, May 8, 2019.

<sup>205</sup> Ibid.

<sup>206</sup> Ibid.

police states where the security forces that are supposed to represent the rule of law treat journalists rudely and harshly."<sup>207</sup>

Mohammad Awwad, who had written an article deemed critical of Hezbollah, was also apprehended in an aggressive way from his home on July 20, 2018 at 5:30 a.m.<sup>208</sup> As he was leaving his apartment, he said he saw five men in civilian clothing armed with Kalashnikovs running towards him. They handcuffed him and took his phone, as Awwad's mother watched from the balcony. Awwad said one of the men went inside the apartment and confiscated his laptop, over the objections of his brother.<sup>209</sup> According to Awwad, the individuals identified themselves as the General Security's Information Branch. They took him to the General Security offices in Dora, north of Beirut and then to the General Security offices in Adlieh in Beirut. He said he was released around five hours later at 10:45 a.m.<sup>210</sup>

Walid Radwan, who had posted a satirical Facebook post about a leading politician, told Human Rights Watch that members of the ISF's Information Branch in the North, dressed in civilian clothing and armed with Kalashnikovs, raided his house and his parent's house in Tripoli after he failed to present himself when the Information Branch summoned him for investigation on Saturday, September 15, 2018.<sup>211</sup> His legal representative advised him not to attend, saying that the weekend summons was likely a pretext to detain him until Monday.<sup>212</sup> Radwan's elderly parents, his wife, and his 3 and 7-year-old children were at home, and they were in a panic, he said. Radwan eventually decided to go for investigation

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<sup>207</sup> Facebook post by Hazem al-Amin, December 10, 2018,

<https://www.facebook.com/hazem.elamin/posts/2042110452539528> (accessed June 6, 2019).

<sup>208</sup> Human Rights Watch interview with Mohammad Awwad, Beirut, April 18, 2019; "The arrest of political activist Mohammad Awwad due to his political opposition to Hezbollah – an era of the repression of freedoms and thinking terrorism" (اعتقال الناشط السياسي محمد عواد بسبب معارضته سياسة حزب الله... زمن قمع الحريات والارهاب الفكري), *Marsad News*, July 20, 2018,

<https://marsadnews.net/%D9%84%D8%A8%D9%86%D8%A7%D9%86/%D8%A7%D8%B9%D8%AA%D9%82%D8%A7%D9%84-%D8%A7%D9%84%D9%86%D8%A7%D8%B4%D8%B7-%D8%A7%D9%84%D8%B3%D9%8A%D8%A7%D8%B3%D9%8A-%D9%85%D8%AD%D9%85%D8%AF-%D8%B9%D9%88%D8%A7%D8%AF-%D8%A8%D8%B3%D8%A8%D8%A8-%D9%85/> (accessed May 29, 2019).

<sup>209</sup> Ibid.

<sup>210</sup> Human Rights Watch interview with Mohammad Awwad, Beirut, April 18, 2019.

<sup>211</sup> Human Rights Watch interview with Walid Radwan, Tripoli, April 25, 2019.

<sup>212</sup> Ibid.

so as not to place his family under unnecessary stress.<sup>213</sup> The prosecution subsequently held him in pretrial detention for 18 days at the Serail.<sup>214</sup>

On Sunday, February 3, 2019, the military public prosecutor issued a summons for Michel Kanbour, the founder of online news site *Lebanon Debate*, for defaming and insulting the army and for spreading false information.<sup>215</sup> The previous day, Kanbour had reported on a physical altercation between a customs official and a security officer at Beirut's airport, after the former insisted on searching the bag and the latter refused.<sup>216</sup> In the article Kanbour incorrectly stated that the bag the customs officer wanted to search belonged to the Army commander. "The wrong information was online for maybe 8 minutes. When I found out it was wrong, I immediately corrected the article and took responsibility for my mistake. What happened afterwards wasn't proportional," Kanbour said.<sup>217</sup>

Kanbour heard about the search warrant against him from the media. "I was surprised because it was a Sunday. Usually, search warrants outside working hours are reserved for the very important cases, like terrorism or drugs. Not for a journalist," Kanbour told Human Rights Watch.<sup>218</sup> That afternoon, members of the Military Police raided *Lebanon Debate's* offices and remained in the office for two to three hours until Kanbour agreed to appear before a military investigator, he said. "This was an intimidation tactic for me and my family," Kanbour said.<sup>219</sup> The investigation, which began at 10 p.m., lasted around one hour and centered around the identity of Kanbour's source. Kanbour was released that night and still does not know whether or not the case against him is ongoing.<sup>220</sup>

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<sup>213</sup> Ibid.

<sup>214</sup> Court judgement by the single criminal judge in Tripoli, October 2, 2019, copy on file with Human Rights Watch.

<sup>215</sup> "Military police raids *Lebanon Debate* office after a search warrant against its owner" (الشرطة العسكرية تداهم مكتب موقع "الليبانون ديبايت" إثر بلاغ بحثٍ وتحريّ بحق صاحبه), SKeyes Media, February 4, 2019, <http://www.skeyesmedia.org/ar/News/Lebanon/7662> (accessed June 8, 2019).

<sup>216</sup> Youssef Diab, "Situation under control after fight at airport," *The Daily Star*, February 4, 2019, <http://www.dailystar.com.lb/News/Lebanon-News/2019/Feb-04/475786-situation-under-control-after-fight-at-airport.ashx> (accessed June 8, 2019).

<sup>217</sup> Human Rights Watch interview with Michel Kanbour, Jal El Dib, April 11, 2019.

<sup>218</sup> Ibid.

<sup>219</sup> Ibid.; "Military police raids *Lebanon Debate* office after a search warrant against its owner" (الشرطة العسكرية تداهم مكتب موقع "الليبانون ديبايت" إثر بلاغ بحثٍ وتحريّ بحق صاحبه), SKeyes Media, February 4, 2019, <http://www.skeyesmedia.org/ar/News/Lebanon/7662> (accessed June 8, 2019).

<sup>220</sup> Human Rights Watch interview with Michel Kanbour, Jal el Dib, April 11, 2019.

Although other individuals accused of defamation were not arrested in such disproportional ways, most were summoned in ways that violate due process. Activists told Human Rights Watch that under the leadership of Major Suzan al-Hajj between 2012 and 2017, the Cybercrimes Bureau was infamous for inviting defendants for a “cup of coffee” without giving them a reason for the summons, only to then investigate and in some cases detain them.<sup>221</sup>

Most of the criminal defamation defendants interviewed by Human Rights Watch who were arrested said that they were arrested without being informed at the time of arrest of the reasons for the arrest or the charges against them and were instead often asked to immediately come in for interrogation.<sup>222</sup>

Article 47 of the Lebanese Code of Criminal Procedure gives suspects the right to contact a family member, an employer, a lawyer, or an acquaintance, as soon as they are detained for the purpose of an investigation.<sup>223</sup> The law also gives suspects the right to remain silent.<sup>224</sup> Few individuals are aware of their rights, and in none of the cases investigated by Human Rights Watch did the security agencies inform them of their rights.

In none of the cases investigated by Human Rights Watch was a lawyer allowed to be present during an interrogation at the Cybercrimes Bureau, Central Criminal Investigations Office, ISF Information Branch in the North, Military Intelligence, General Security, and State Security. Lebanese law does not explicitly state that lawyers can be present during an interrogation by security agencies where individuals were arrested after the alleged

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<sup>221</sup> See for example Nazih Osseiran, “Lebanon, Once a Bastion of Political Freedom, Cracks Down on Speech,” February 10, 2018, *The Wall Street Journal*, <https://www.wsj.com/articles/lebanon-once-a-bastion-of-political-freedom-cracks-down-on-speech-1518264000> (accessed May 20, 2019); “Karim Hawa, a new victim in the cyber space in Lebanon,” SMEX, November 16, 2014, <https://smex.org/karim-hawa-a-new-victim-in-the-cyber-space-in-lebanon/> (accessed June 8, 2019); Human Rights Watch interview with George Ghali, Beirut, April 17, 2019; Human Rights Watch interview with Mohammad Najem, Beirut, April 17, 2019.

<sup>222</sup> See, for example, Human Rights Watch interview with Hani Nsouli, Beirut, April 3, 2019; Human Rights Watch interview with Ziad Zeidan, April 15, 2019; Human Rights Watch interview with Charbel Khoury, Beirut, April 17, 2019; Human Rights Watch interview with Hanadi Gerges, April 25, 2019; Human Rights Watch interview with Khaled Abboushi, May 16, 2019; Human Rights Watch interview with Dr. Charbel Kareh, Beirut, May 17, 2019.

<sup>223</sup> Lebanese Code of Criminal Procedure, Article 47.

<sup>224</sup> Human Rights Watch interview with George Ghali, Beirut, April 17, 2019

criminal act.<sup>225</sup> However, Lebanese legal expert Dr. Charbel Kareh maintains that if there is no express prohibition, then the practice should be that lawyers are able to attend interrogations at security agencies.<sup>226</sup>

Human rights lawyer Nizar Saghieh further states that there is a “gentleman’s agreement” between the Order of Journalists and the Public Prosecutor’s office stating that journalists should not be interrogated by security agencies and can appear directly before an investigative judge.<sup>227</sup> In practice, the prosecutors have not abided by this agreement, and, as demonstrated in this report, many journalists have been called in for investigation by security agencies.

### *Interrogation Tactics, Abuse, and Privacy Violations*

Individuals interviewed by Human Rights Watch described a range of physical and psychological interrogation tactics they believed were intended to humiliate, punish, and deter individuals from publishing content deemed to be insulting to powerful local individuals.

“The long hours of questioning in the police stations is hard to understand,” Saghieh remarked. “In most cases, the issue is very clear. I wrote something about you. There is no need for other evidence or questioning.”<sup>228</sup> Rather, according to Saghieh, the point of these investigations is to send a very clear message that there are certain people that you cannot talk about:

The interrogators make you wait a long time. They say they have to call the prosecutor to see what they have to do. And the prosecutor could say that he is sleeping, just to keep you there waiting. So you spend 4 to 5 hours waiting. This itself is a punitive measure; a deprivation of liberty. So with

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<sup>225</sup> Human Rights Watch interview with Nizar Saghieh, Beirut, April 9, 2019; Human Rights Watch interview with Dr. Charbel Kareh, Beirut, May 17, 2019.

<sup>226</sup> Human Rights Watch interview with Dr. Charbel Kareh, Beirut, May 17, 2019.

<sup>227</sup> Human Rights Watch interview with Nizar Saghieh, Beirut, April 9, 2019.

<sup>228</sup> Ibid.

that, the prosecutor is teaching you that criticizing isn't as easy as posting something. There is a price to pay.<sup>229</sup>

Walid Radwan said an officer beat him during his interrogation in the ISF's Information Branch in Tripoli on Saturday, September 15, 2018, over a Facebook post where he satirically criticized a prominent politician.<sup>230</sup> Radwan told Human Rights Watch that the interrogator, who was a supporter of the politician's party, took his phones and password, insulted him, and slapped him while an official from the party video-conferenced into the session and ordered the investigator to abuse him.<sup>231</sup> "The interrogator asked me 'you dog, how dare you write about [the politician]?' " Radwan said. "And then he hit me three times on the head and face. It's not the kind of beating that hurts you physically, but one that hurts your dignity."<sup>232</sup>

Khaled Abboushi, a furniture maker and social media activist, also said that officers at the Military Intelligence branch in Tripoli subjected him to physical and psychological violence on July 24, 2018, after posting a picture on his Facebook that was deemed insulting to the president, a minister, and a parliamentarian.<sup>233</sup> Interrogators from the Military Intelligence branch covered his face and looked through his social media accounts while questioning him about his political views towards the politicians, he said.<sup>234</sup>

Throughout the interrogation, Abboushi said he could hear the sounds of beatings, screaming, and yelling. When Abboushi refused to answer some questions, the interrogator uncovered his face and took him into a room containing what Abboushi

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<sup>229</sup> Ibid.

<sup>230</sup> "Man Detained for 2 weeks over Facebook post," *The Daily Star*, September 28, 2018, <http://www.dailystar.com.lb/News/Lebanon-News/2018/Sep-28/464753-man-detained-for-2-weeks-over-facebook-post.ashx> (accessed June 6, 2019).

<sup>231</sup> Human Rights Watch interview with Walid Radwan, Tripoli, April 25, 2019.

<sup>232</sup> Ibid.

<sup>233</sup> "Army intelligence arrests activist Khaled Abboushi for two days due to his criticism of Aoun and Bassil," *Skeyes Media*, July 27, 2018, <http://www.skeyesmedia.org/ar/News/Lebanon/7322> (accessed June 6, 2019); "Two days after his arrest..release of activist Khaled Abboushi" (بعد يومين على توقيفه.. الإفراج عن الناشط خالد عبوشي), Lebanon 24, July 26, 2018, <https://www.lebanon24.com/news/lebanon/496874/%D8%A8%D8%B9%D8%AF-%D9%8A%D9%88%D9%85%D9%8A%D9%86-%D8%B9%D9%84%D9%89-%D8%AA%D9%88%D9%82%D9%8A%D9%81%D9%87-%D8%A7%D9%84%D8%A5%D9%81%D8%B1%D8%A7%D8%AC-%D8%B9%D9%86-%D8%A7%D9%84%D9%86%D8%A7%D8%B4%D8%B7-%D8%AE%D8%A7%D9%84%D8%AF-%D8%B9%D8%A8%D9%88%D8%B4%D9%8A> (accessed June 6, 2019).

<sup>234</sup> Human Rights Watch interview with Khaled Abboushi, Tripoli, May 16, 2019.

described as “torture equipment,” including a “balanco.”<sup>235</sup> “He barely left me two minutes inside. It was just to show me this is where the beating would happen,” Abboushi said.<sup>236</sup> At the end of the interrogation, one of the officers threatened Abboushi, saying that if some important figures hadn’t been asking about him, he “would have been torn into pieces.”<sup>237</sup>

Charbel Khoury, a statistical analyst and activist, said he was also threatened, humiliated, and insulted during his interrogation at the ISF’s Cybercrimes Bureau on July 20, 2018.<sup>238</sup> Khoury was sued by a powerful Christian group for posting a joke about a Christian saint on Facebook.<sup>239</sup> “Throughout the entire day, people at the bureau were cursing me, making fun of the way I look and of my hair, and threatening to beat me up,” Khoury said. “They made me wait 5 hours before the start of the interrogation. I was sitting in a chair, and if I moved slightly or closed my legs, someone would yell, ‘sit properly’”.<sup>240</sup>

Khoury said that during the interrogation, two or three “big guys” would occasionally come into the room to insult him, stand tall above him, and threaten him. The interrogating officer ordered Khoury to give him the passwords to his social media accounts or else “we will beat you.” “I was scared. I thought, I will give them the password after they beat me, so I might as well save myself.”<sup>241</sup> The officer looked through Khoury’s personal messages and made snide remarks about Khoury’s girlfriend and family members, he said.<sup>242</sup>

Wadih al-Asmar, the president of the Lebanese Center for Human Rights (CLDH), was summoned for an investigation on August 31, 2018 at the Cybercrimes Bureau for sharing Khoury’s post, where he said the interrogators also tried to intimidate him. “Four people were interrogating me and hitting the walls because I wasn’t answering. I am pretty sure

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<sup>235</sup> The “balanco” is a torture device that is used to hang individuals from the ceiling by their wrists that are bound behind their back.

<sup>236</sup> Human Rights Watch interview with Khaled Abboushi, Tripoli, May 16, 2019.

<sup>237</sup> Ibid.

<sup>238</sup> Human Rights Watch interview with Charbel Khoury, Beirut, April 17, 2019.

<sup>239</sup> “Journalist briefly detained over online posts,” *The Daily Star*, July 21, 2018, <https://www.dailystar.com.lb/News/Lebanon-News/2018/Jul-21/457356-journalist-briefly-detained-over-online-posts.ashx> (accessed June 6, 2019).

<sup>240</sup> Human Rights Watch interview with Charbel Khoury, Beirut, April 17, 2019.

<sup>241</sup> Ibid.

<sup>242</sup> Ibid.

that if it were someone else, he would have been beaten,” al-Asmar told Human Rights Watch.<sup>243</sup>

Timour Azhari, a reporter for *The Daily Star*, was interrogated at the Cybercrimes Bureau for eight hours after he wrote an article and posted on his personal Twitter account about the case of a migrant domestic worker, Lensa Lelisa, who alleged abuse by her employers.<sup>244</sup> Azhari said that early in the investigation, the interrogator ordered him to delete his Twitter posts. “He told me ‘whether you like it or not, you will remove them, and if you don’t, we will give you a couple of slaps, you will spend one night in the cell, and you will then remove them. So, it’s better for you to remove them now,’” Azhari told Human Rights Watch.<sup>245</sup> “That’s when I realized it was serious. My heart was beating really fast, and it really dawns on you: You’re in the custody of the ISF being interrogated by someone who is biased against you even from the outset.”<sup>246</sup>

Azhari said that much of his interrogation centered around the identity of an anonymous source who had given him details about Lelisa’s case, as well as his relationship with the group, This is Lebanon, that first published Lelisa’s video alleging abuse.<sup>247</sup> The investigator asked for Azhari’s phone. “I don’t know my rights. If I don’t give him my phone, I look guilty. So, I handed it to him,” Azhari said. As the investigator was looking through Azhari’s phone, Azhari asked “do you have the right to do this?” to which the investigator replied, “yes, I can examine any evidence here.”<sup>248</sup> When the investigator found what he was looking for, he went to the office of the Head of the Cybercrimes Bureau, Major Albert Khoury, who gave the investigator permission to use the evidence after a judge’s approval. Later, the investigator told Azhari that if he calls the judge, Azhari will be in the bureau for a long time, and he will get it anyway. Azhari said, “There was no possibility in my mind that the judge wouldn’t allow him to get the information, so I

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<sup>243</sup> Human Rights Watch interview with Wadih al-Asmar, Europe, May 8, 2019.

<sup>244</sup> “Lawsuit against *The Daily Star* journalist rescheduled,” *The Daily Star*, November 28, 2018, <https://www.dailystar.com.lb/News/Lebanon-News/2018/Nov-28/470289-lawsuit-against-the-daily-star-journalist-rescheduled.ashx> (accessed June 6, 2019).

<sup>245</sup> Human Rights Watch interview with Timour Azhari, Beirut, April 5, 2019.

<sup>246</sup> Ibid.

<sup>247</sup> Ibid.

<sup>248</sup> Ibid.

agreed.”<sup>249</sup> The interrogator printed Azhari’s WhatsApp conversations and stated, “You didn’t want to give me the name of your anonymous source, but I got it anyway.”<sup>250</sup>

According to media sources, military intelligence officers also used these humiliating and at times violent interrogation tactics against a 15-year-old boy. Local media reported that on June 19, 2018, Youssef al-Abdallah was interrogated at the Military Intelligence branch in Tripoli for sharing a caricature of the president on WhatsApp.<sup>251</sup> Al-Abdallah’s father told local media that officers handcuffed and blindfolded his son, “as if he is Abu Bakr al-Baghdadi [the leader of ISIS].”<sup>252</sup> When al-Abdallah’s father went to pick him up from Military Intelligence in the afternoon, he was told that his son was not there anymore. For almost 22 hours, al-Abdallah’s father said he did not know his son’s whereabouts. The next day, at around 1 p.m., he was called by the police station in Al-Qubayyat in North Lebanon telling him that his son was at the facility. Al-Abdallah remained at the police station until midnight, when he was released after signing a pledge promising not to insult the president, according to local media.<sup>253</sup>

### *Signing of Pledges, Removal of Defamatory Content, and Banning Social Media Use*

In a free speech and due process violation, interrogating agencies often pressure individuals to sign pledges promising not to write defamatory content about the complainant in the future or to remove their offending content immediately, before individuals appear before a court and present their defense and sometimes without any

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<sup>249</sup> Ibid.

<sup>250</sup> Ibid.

<sup>251</sup> “Cybercrimes Bureau summons journalist Anne-Marie el-Hage because of a news report” (مكتب "جرائم المعلوماتية" (يستدعي الصحافية أن ماري الحاج بسبب تقرير صحفي), SKeys Media, June 18, 2018, <http://www.skeyesmedia.org/ar/news/lebanon/7244> (accessed June 6, 2019); Finbar Anderson, “Drawing Lines on Freedom of Speech,” *The Daily Star*, September 24, 2018, <http://www.dailystar.com.lb/News/Lebanon-News/2018/Sep-24/464205-drawing-lines-on-freedom-of-speech.ashx> (accessed May 22, 2019); Ben Hubbard, “When jokes become a crime: free speech under fire in Lebanon,” *The New York Times*, February 21, 2018, <https://www.nytimes.com/2018/02/21/world/middleeast/lebanon-free-speech.html> (accessed May 22, 2019).

<sup>252</sup> Finbar Anderson, “Drawing Lines on Freedom of Speech,” *The Daily Star*, September 24, 2018, <http://www.dailystar.com.lb/News/Lebanon-News/2018/Sep-24/464205-drawing-lines-on-freedom-of-speech.ashx>; <https://www.nytimes.com/2018/02/21/world/middleeast/lebanon-free-speech.html> (accessed May 22, 2019).

<sup>253</sup> “Army intelligence arrests young boy Youssef Abdallah for criticizing the President on WhatsApp,” (مخابرات الجيش توقف) (“الشاب يوسف عبدالله لانتقاده رئيس الجمهورية على واتس أب”), SKeys Media, June 22, 2018, <http://www.skeyesmedia.org/ar/News/Lebanon/7248> (accessed June 6, 2019).

charges being brought. Lebanese lawyers agree that these pledges have no legal bearing.<sup>254</sup>

“This is particularly outrageous,” Saghieh remarked, adding:

Here the purpose isn’t to get someone to trial, which is public. But just when you want someone to take back something that they said, in private, in a police station. In these cases, the individual is convicting himself before he even appears before a court. And it is taking away his right to a defense. A lot of cases end at this stage, after the person apologizes or signs a pledge. This dimension is evidence of a high degree of repression. Here, you are silencing people rather than punishing them. And you get an even better result.<sup>255</sup>

Between January 2015 and May 2019, the Cybercrimes Bureau released 1461 individuals after investigation after obtaining a proof of residence, including individuals who pledged not to insult or write defamatory content about the complainant in the future and remove the offending electronic content.<sup>256</sup> The ISF told Human Rights Watch that during this period, six individuals refused to sign such a pledge.<sup>257</sup>

However, the ISF insisted that:

The work of our office is conducted under the supervision of and with instruction from the competent judiciary, in accordance with the applicable laws and procedures (The Code of Criminal Procedure, the Penal Code, the Law on Electronic Transactions and Personal Data, etc.). Thus, all investigative procedures relies on and come at the instruction of the appropriate public prosecution, and so our work is limited to initial investigation of cases referred to us, and any decision taken regarding the

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<sup>254</sup> Human Rights Watch interview with Dr. Charbel Kareh, Beirut, May 17, 2019; Human Rights Watch interview with Layal Bahnam and Tony Mikhael, Maharat Foundation, Beirut, May 10, 2019.

<sup>255</sup> Human Rights Watch interview with Nizar Saghieh, Beirut, April 9, 2019.

<sup>256</sup> Letter from the Internal Security Forces to Human Rights Watch, May 17, 2019.

<sup>257</sup> Ibid.

accused (detention, release, proof of residence, pledge, etc.) is under the jurisdiction of the competent judiciary.<sup>258</sup>

The Acting Cassation Prosecutor confirmed that security agencies, including the Cybercrimes Bureau, act on orders of his office. He insisted that the pledges are legal and cited Article 111 of the Code of Criminal Procedure as the basis for these pledges.<sup>259</sup> However, Article 111 gives the investigative judge, after consulting with the public prosecution, the authority to set conditions of judicial supervision if he decides to release of defendant. It does not give the public prosecution the authority to do so, especially before the individual has been charged.<sup>260</sup>

All the individuals interviewed by Human Rights Watch who have appeared before the Cybercrimes Bureau said they were asked to sign pledges promising not to insult the complainant and/or remove the offending posts.<sup>261</sup>

For example, Ziad Itani, the actor who was exonerated of spying for Israel, was called in to the Cybercrimes Bureau on February 5, 2019 after the husband of the officer who allegedly framed him filed a defamation case against him. Itani pledged not to write about the complainant or his family anymore, and he removed the two Facebook posts where the alleged defamatory content appeared.<sup>262</sup> Itani told Human Rights Watch that he decided to sign the pledge after the interrogators made some comments about previous political posts he had written. “They were turning it into a political issue to dig me into a deeper hole,” Itani said.<sup>263</sup>

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<sup>258</sup> Ibid.

<sup>259</sup> Human Rights Watch interview with the Acting Cassation Prosecutor Imad Qabalan, Beirut, August 21, 2019.

<sup>260</sup> Lebanese Code of Criminal Procedure, art. 111.

<sup>261</sup> Human Rights Watch interview with Ziad Itani, Beirut, April 3, 2019; Human Rights Watch interview with Timour Azhari, Beirut, April 5, 2019; Human Rights Watch interview with Fidaa itani, London, April 10, 2019; Human Rights Watch interview with Abbas Saleh, Beirut, April 9, 2019; Human Rights Watch interview with Ziad Zeidan, activist, Beirut, April 15, 2019; Human Rights Watch interview with Charbel Khoury, Beirut, April 17, 2019; Human Rights Watch interview with Imad Bazzi, Hazmieh, April 18, 2019; Human Rights Watch interview with Hanadi Gerges, Beirut, April 25, 2019; Human Rights Watch interview with Wadih al-Asmar, Europe, May 8, 2019; Human Rights Watch interview with Bassel al-Amine, Beirut, May 13, 2019.

<sup>262</sup> Human Rights Watch interview with Ziad Itani, Beirut, April 3, 2019.

<sup>263</sup> Ibid.

On August 11, 2017, the Cybercrimes Bureau called Hanadi Gerges in for investigation for satirical social media posts critical of leading politicians and the president. “The interrogator started reading the posts. Post after post. My file was around 1,000 pages. He started looking through my phone. He wanted to go through WhatsApp too. At the end, he told me I have to delete the posts,” Gerges said.<sup>264</sup> She was led into a room with a computer where she deleted the posts. She was also made to sign next to each of her posts that she would not repeat those sayings and pledge not to criticize or write about the president, the prime minister, the speaker of parliament, the patriarch, and the mufti, she said.<sup>265</sup>

Abbas Saleh, the editor-in-chief of *al-Donya News*, an independent electronic newspaper, was also asked by the Cybercrimes Bureau to sign a pledge at the end of his interrogation on August 30, 2018. Saleh was summoned for questioning after he wrote a post accusing a leader of a Christian party of being a thief after a report stated that a Lebanese patient pays 700 percent more than a European patient for medicine.<sup>266</sup> The Minister of Health at the time was a member of the same party. After an interrogation that Saleh described as “overwhelming” and “psychologically pressuring,” Saleh said the interrogators asked him to remove the post and pledge not to speak of the politician again. Saleh agreed to the former but declined to sign the latter.<sup>267</sup>

The Cybercrimes Bureau also ordered Timour Azhari to remove two of his Tweets regarding the case of Lelisa Lelisa, the Ethiopian migrant domestic worker who alleged being abused by her employers, during his interrogation on June 7, 2019. Azhari said he agreed after the interrogator threatened to hit him and detain him for one night if he refused.<sup>268</sup> At the end of the interrogation, an officer from the Bureau also asked Azhari if he would apologize or admit wrongdoing, but Azhari refused. However, he agreed to pledge that he would not report on Lelisa’s case anymore.<sup>269</sup>

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<sup>264</sup> Human Rights Watch interview with Hanadi Gerges, Beirut, April 25, 2019.

<sup>265</sup> Ibid.

<sup>266</sup> Human Rights Watch interview with Abbas Saleh, Beirut, April 9, 2019.

<sup>267</sup> Ibid.

<sup>268</sup> Human Rights Watch interview with Timour Azhari, Beirut, April 5, 2019.

<sup>269</sup> Ibid.

After their six-hour interrogation at State Security, two of Mashrou' Leila's members pledged to remove the content that was deemed to be offensive to Christianity from their social media accounts and from their concert set list and issue a public apology.<sup>270</sup> The public prosecutor then released them, without charge.<sup>271</sup>

Fidaa Itani, Wadih al-Asmar, and Imad Bazzi, a prominent activist, said they refused to sign pledges or remove alleged defamatory content during their interrogations at the Cybercrimes Bureau between July 2017 and August 2018. Itani told Human Rights Watch that the then-head of the Cybercrimes Bureau gave him a “lecture on morals” and called him a “criminal” during his questioning that resulted from a post that was allegedly insulting to a minister on July 10, 2017.<sup>272</sup> He said Major Suzan Al-Hajj asked him to sign a pledge promising not to insult the minister and asked for his phone and Facebook password, “or else.” Itani refused to sign a pledge or provide his phone and password. “Al-Hajj wanted to break me and threaten me,” Itani said.<sup>273</sup>

Wadih al-Asmar also told Human Rights Watch that although officers from the Cybercrimes Bureau asked him on August 31, 2018 to delete his Facebook post sharing a joke that was deemed to be insulting to religion as per an order from the public prosecution, he refused.<sup>274</sup> Similarly, Imad Bazzi refused to sign a pledge after his interrogation at the Cybercrimes Bureau in August 2018 resulting from his criticism of Eden Bay, a resort built on public property.<sup>275</sup>

Other security agencies interrogating individuals in connection with defamation charges also asked them to sign similar pledges and remove the alleged defamatory content. Hani Nsouli, who was interrogated on September 17, 2018 by the Central Criminal Investigations

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<sup>270</sup> “Lebanon: Festival Cancels Mashrou' Leila Concert,” Human Rights Watch news release, July 31, 2019, <https://www.hrw.org/news/2019/07/31/lebanon-festival-cancels-mashrou-leila-concert>.

<sup>271</sup> Ibid.

<sup>272</sup> Human Rights Watch interview with Fidaa itani, London, April 10, 2019.

<sup>273</sup> Ibid.

<sup>274</sup> Human Rights Watch interview with Wadih al-Asmar, Europe, May 8, 2019.

<sup>275</sup> Human Rights Watch interview with Imad Bazzi, Hazmieh, April 18, 2019.

Office, said that he pledged that as long as the complainant was not working in a public position, he would not take a public political position towards him.<sup>276</sup>

The Central Criminal Investigations Office also asked Ahmad Ayoubi, a journalist and secretary-general of the Civil Islamic Coalition, to pledge not to insult the complainant. “I said, first, I won’t sign a blanket statement like this. If I make a specific mistake, I will correct it. Second, I don’t have a personal problem with [the complainant]. I will hold on to my political opinions, which are more important than personal insults,” Ayoubi said.<sup>277</sup> When it became apparent that Ayoubi was not going to sign the pledge, he was arrested and held in pretrial detention for 13 days in squalid conditions before being released on bail on November 28, 2017, he said.<sup>278</sup>

Local media reported that members of the Al-Qubbayat police station in North Lebanon made 15-year-old Youssef al-Abdallah sign a pledge promising not to insult the president before being released.<sup>279</sup>

In an egregious incident, on July 20, 2018, the Mount Lebanon public prosecutor, ordered Charbel Khoury to sign a pledge not to write about religion and to deactivate his Facebook account for one month.<sup>280</sup> Khoury told Human Rights Watch that the interrogator at the Bureau threatened “if I see you on Facebook, I will drag you by your hair from your house, and we know where your house is.”<sup>281</sup>

According to Lebanese legal experts, the public prosecutor’s 2018 order to deactivate Khoury’s Facebook account for one month was illegal under Lebanese law, as there was no

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<sup>276</sup> Human Rights Watch interview with Hani Nsouli, Beirut, April 3, 2019; Interrogation report provided to Human Rights Watch by Hani Nsouli.

<sup>277</sup> Human Rights Watch interview with Ahmad Ayoubi, Tripoli, April 25, 2019.

<sup>278</sup> “Ahmad Ayoubi released on bail,” National News Agency, November 28, 2017, <http://nna-leb.gov.lb/en/show-news/85961/Ahmad-Ayoubi-released-on-bail> (accessed May 29, 2019); Human Rights Watch interview with Ahmad Ayoubi, Tripoli, April 25, 2019.

<sup>279</sup> “Army intelligence arrests young boy Youssef Abdallah for criticizing the President on WhatsApp” (مخابرات الجيش توقف “الشاب يوسف عبدالله لانتقاده رئيس الجمهورية على واتس أب”), SKeyes Media, June 22, 2018, <http://www.skeyesmedia.org/ar/News/Lebanon/7248> (accessed June 6, 2019).

<sup>280</sup> Human Rights Watch interview with Charbel Khoury, Beirut, April 17, 2019. See also “Journalist briefly detained over online posts,” *The Daily Star*, July 21, 2018, <https://www.dailystar.com.lb/News/Lebanon-News/2018/Jul-21/457356-journalist-briefly-detained-over-online-posts.ashx> (accessed June 7, 2019).

<sup>281</sup> Human Rights Watch interview with Charbel Khoury, Beirut, April 17, 2019.

legal text that allowed the public prosecutor to suspend websites, including social media accounts.<sup>282</sup> However, since then, under Law No. 81 Relating to Electronic Transactions and Personal Data (E-Transactions Law), which came into effect in January 2019, the public prosecution has the authority to decide to “temporarily suspend certain electronic services, block websites or freeze accounts in such websites, for no more than thirty days.” This period may be renewed once through a “justified decision.” The Public Prosecution’s decisions are not subject to appeal.<sup>283</sup>

### *Pretrial Detention*

Security agencies pursuing individuals interviewed by Human Rights Watch on criminal defamation and incitement charges in some cases detained them pretrial in relation to the charges. The securing agencies conducting investigations are under the authority of the public prosecution. The Acting Cassation Prosecutor told Human Rights Watch that his office decides when it is necessary to hold an individual in pretrial detention, depending on the gravity of that person’s crime, as well as whether the prosecution thinks that pretrial detention is necessary for “security” or for the individual’s own protection.<sup>284</sup>

However, Lebanon’s Code of Criminal Procedure limits the use of pretrial detention. Pretrial detention is only permissible in Lebanon for offenses that are punishable by more than one-year imprisonment.<sup>285</sup> A public prosecutor can allow police to detain suspects for a maximum of 48 hours, renewable once, for the purposes of investigation.<sup>286</sup> After that, individuals must be brought before a judge, who decides whether the suspect should be released or detained pretrial. For minor offenses, a judge can order a suspect’s detention for two months, renewable once.<sup>287</sup>

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<sup>282</sup> Human Rights Watch interview with Dr. Charbel Kareh, Beirut, May 17, 2019; Human Rights Watch interview with Nizar Saghie, Beirut, April 9, 2019; Human Rights Watch interview with George Ghali, Beirut, April 17, 2019.

<sup>283</sup> E-Transactions Law (Law 81/2018), art. 126.

<sup>284</sup> Human Rights Watch interview with Acting Cassation Prosecutor Imad Qabalan, Courts of Justice, Beirut, August 21, 2019.

<sup>285</sup> Lebanese Code of Criminal Procedure, art. 107.

<sup>286</sup> *Ibid.*, art. 47.

<sup>287</sup> *Ibid.*, art. 107; Human Rights Watch interview with Nizar Saghie, Beirut, April 9, 2019.

Even where pretrial detention is permissible, Lebanon’s Code of Criminal Procedure states that it should be the exception and only used where necessary to preserve the evidence, protect the defendant, or preserve security.<sup>288</sup>

Article 9 of the International Covenant on Civil and Political Rights (ICCPR), which Lebanon ratified in 1972, also requires that pretrial detention be the exception rather than the rule. The Human Rights Committee, which interprets the ICCPR, has held that pretrial detention “must be based on an individualized determination that it is reasonable and necessary taking into account all the circumstances, for such purposes as to prevent flight, interference with evidence or the recurrence of crime.”<sup>289</sup> The Committee has also made clear that pretrial detention should not be based on the potential sentence for the crime charged, but on a determination of necessity.<sup>290</sup>

The Publications Law prohibits pretrial detention for any of the crimes that it covers, including where the punishment is greater than one year.<sup>291</sup> However, because speech on electronic media is not always subject to the Publications Law, the relevant provisions of the Penal Code apply.<sup>292</sup>

Most of the Penal Code provisions related to slander, libel, and insults are punishable by imprisonment not exceeding one year, and therefore should not have resulted in pretrial detention.<sup>293</sup> However, in some cases, interviewees told Human Rights Watch that they believed the complainants or the public prosecution were adding additional articles for which the punishment exceeded one-year imprisonment to justify pretrial detention in defamation cases. While those additional charges were subsequently dropped for lack of evidence, they did result in security agencies detaining suspects pretrial. There is no indication that the judiciary assessed the necessity of holding individuals in pretrial detention.

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<sup>288</sup> Lebanon Code of Criminal Procedure, art. 107.

<sup>289</sup> United Nations Human Rights Committee, General Comment No. 35, Liberty and security of persons (Art. 9), (112th session, 2014), para 38.

<sup>290</sup> *Ibid.*

<sup>291</sup> Law no. 330/1994, art. 6.

<sup>292</sup> See Section IV.

<sup>293</sup> *Ibid.*

In a leaked memo dated February 20, 2018, the then-Minister of Justice requested that the Public Prosecutor refrain from holding individuals in pretrial detention for expressing their opinions on social media.<sup>294</sup> However, the Acting Cassation Prosecutor told Human Rights Watch that the memo is nonbinding, as the Ministry of Justice does not have authority over the public prosecution.<sup>295</sup>

The ISF's Information Branch held Walid Radwan in pretrial detention for 18 days in Tripoli, between September 15, 2018 and October 2, 2018, after he wrote a Facebook post that was deemed to be insulting to a leading politician.<sup>296</sup> The public prosecution filed charges against Radwan under Articles 383 (insults), as well as Article 384 (insulting the president), despite the fact that the Facebook post in question did not mention the president.<sup>297</sup> The punishment under Article 383 is less than one-year imprisonment, while insulting the president under Article 384 is punishable by up to two-years imprisonment, and therefore could trigger pretrial detention. On October 2, 2018, a Single Criminal Judge in Tripoli dismissed the charges under Article 384 for lack of elements of the crime, but sentenced Radwan to three-months imprisonment for insulting the politician under Article 383 and a fine of 500,000 Lebanese pounds (US\$333). She reduced the sentence to time served in addition to the fine.<sup>298</sup>

Radwan told Human Rights Watch that during his 18-day detention, he was held in a dirty, hot, and rat-infested underground cell measuring 5 meters by 6 meters with 16 other individuals.<sup>299</sup> Radwan was not allowed to make any phone calls to his family nor see his lawyer.<sup>300</sup>

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<sup>294</sup> Facebook post of Assaad Thebian on March 28, 2017, <https://www.facebook.com/photo.php?fbid=10154232185282441&set=a.10150239155067441&type=3&theater> (accessed June 6, 2019).

<sup>295</sup> Human Rights Watch interview with Acting Cassation Prosecutor Imad Qabalan, Beirut, August 21, 2019.

<sup>296</sup> Court judgement issued by the Single Criminal Court in Tripoli on October 2, 2018, provided to Human Rights Watch by Walid Radwan.

<sup>297</sup> Human Rights Watch interview with Walid Radwan, Tripoli, April 25, 2019; Court judgement issued by the Single Criminal Court in Tripoli on October 2, 2018, provided to Human Rights Watch by Walid Radwan.

<sup>298</sup> Court judgement issued by the Single Criminal Court in Tripoli on October 2, 2018, provided to Human Rights Watch by Walid Radwan.

<sup>299</sup> Human Rights Watch interview with Walid Radwan, Tripoli, April 25, 2019.

<sup>300</sup> Ibid.

Ahmad Ayoubi, who was subject to a lawsuit by a political party official, was arrested and held in pretrial detention for 13 days in Beirut’s Judicial Palace before being released on bail on November 28, 2017.<sup>301</sup>

The official filed charges against Ayoubi under several articles: slander and libel, insulting a brotherly state, and insulting the president.<sup>302</sup> Similar to the case of Radwan, it seems that the last two charges may have been added to authorize holding Ayoubi in pretrial detention. Third parties cannot file charges of insulting the president; only the public prosecution can. According to Ayoubi, both charges were quickly dismissed by the prosecutor for lack of evidence, but Ayoubi continued to be held in detention, he alleges, due to his refusal to apologize to the complainant publicly.<sup>303</sup> Given Ayoubi’s case was heard before the Publication Court, Ayoubi should have been subjected to the Publications Law, which prohibits pretrial detention.<sup>304</sup>

Ayoubi said he was held in a dark, dirty cell with around fifty other detainees, most of whom were not given mattresses to sleep on and many of whom were held in pretrial detention for several months.<sup>305</sup> “It was like a sardine can,” Ayoubi said. Detainees were denied adequate medical care, and the food provided was unsanitary, according to Ayoubi. Ayoubi was not allowed to see his lawyer in private the entire time he was in detention, and he was only able to communicate with his family via phone one week after his arrest.<sup>306</sup>

Other individuals interviewed by Human Rights Watch were also held in pretrial detention for charges that do result in imprisonment of periods exceeding one year.

For example, Mustafa “Ahmad” Sbeity, a poet, was detained for 17 days pretrial for insulting a religious symbol in a Facebook post on November 27, 2017 after the ISF’s

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<sup>301</sup> “Ahmad Ayoubi released on bail,” National News Agency, November 28, 2017, <http://nna-leb.gov.lb/en/show-news/85961/Ahmad-Ayoubi-released-on-bail> (accessed May 29, 2019); Human Rights Watch interview with Ahmad Ayoubi, Tripoli, April 25, 2019.

<sup>302</sup> Human Rights Watch interview with Ahmad Ayoubi, Tripoli, April 25, 2019.

<sup>303</sup> Ibid.

<sup>304</sup> Law no. 330/1994, art. 6.

<sup>305</sup> Human Rights Watch interview with Ahmad Ayoubi, Tripoli, April 25, 2019.

<sup>306</sup> Ibid.

Information Branch arrested him in Saida.<sup>307</sup> Although Sbeity removed the post the day after publishing it, the public prosecutor charged him with inciting sectarian strife under Article 317 and insulting religion under Article 474.<sup>308</sup> The two charges carry a maximum penalty of three years each. An investigative judge ordered Sbeity's detention at the Justice Palace in Nabatieh in South Lebanon in a cell that he described as so small and overcrowded that detainees had to take turns sleeping.<sup>309</sup>

In another case, Ahmad Amhaz, a Lebanese activist, was arrested on March 21, 2017 by the Cybercrimes Bureau for a Facebook post and spent nine days in pretrial detention at the Cybercrimes Bureau and Baadba Juridical Palace before being released on bail.<sup>310</sup> Amhaz's lawyer told Human Rights Watch that the public prosecution charged Amhaz under Article 383 (insulting public officials), Article 386 (slander), and Article 384 (insulting the president), for which the penalty is up to two-years imprisonment.<sup>311</sup>

The prosecution also held a 21-year-old student in pretrial detention. On December 6, 2016, the Cybercrimes Bureau arrested Bassel al-Amin due to a public Facebook post in which he criticized Lebanon, its presidents, and its national emblem. An investigative judge released him on bail on December 12, 2016 and referred his file to the public prosecutor.<sup>312</sup> Al-Amin said that he has not been called in for a court hearing since and is unaware of the status of his case.<sup>313</sup> Al-Amin's lawyer told Human Rights Watch that the charges against al-Amin include insulting the Lebanese national emblem (Article 384) and causing sectarian strife (Article 317), which are punishable by up to three-years imprisonment.<sup>314</sup>

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<sup>307</sup> Human Rights Watch interview with Mustafa Sbeity, Saida, May 14, 2019.

<sup>308</sup> Ibid; "Lebanon: Pattern of prosecutions for free speech," Human Rights Watch news release, January 31, 2018, <https://www.hrw.org/news/2018/01/31/lebanon-pattern-prosecutions-free-speech>.

<sup>309</sup> Human Rights Watch interview with Mustafa Sbeity, Saida, May 14, 2019.

<sup>310</sup> Kareem Chehayeb, "Activist Ahmad Amhaz released on bail, will still stand trial," *The Daily Star*, March 29, 2017, <https://www.dailystar.com.lb/News/Lebanon-News/2017/Mar-29/399639-activist-ahmad-amhaz-released-on-bail-will-still-stand-trial.ashx> (accessed June 5, 2019).

<sup>311</sup> "Lebanon: activist charged for Facebook post criticizing politicians," Human Rights Watch news release, March 27, 2017, <https://www.hrw.org/news/2017/03/27/lebanon-activist-charged-facebook-post-criticizing-politicians>.

<sup>312</sup> "Lebanon: student arrested for Facebook post," Human Rights Watch news release, December 13, 2016, <https://www.hrw.org/news/2016/12/13/lebanon-student-arrested-facebook-post>

<sup>313</sup> Human Rights Watch interview with Bassel al-Amine, Beirut, May 13, 2019.

<sup>314</sup> "Lebanon: student arrested for Facebook post," Human Rights Watch news release, December 13, 2016, <https://www.hrw.org/news/2016/12/13/lebanon-student-arrested-facebook-post>.

Al-Amin spent four days in detention at the Cybercrimes Bureau and two days in the Baabda Justice Palace.<sup>315</sup> “I saw him the first day and the following morning and I collapsed, I started crying,” Al Amin’s mother told Human Rights Watch. “He does not belong in that cell. You should have seen the people he’s with. What did he do to deserve this? He’s a student. He studies journalism. He shouldn’t be there.”<sup>316</sup>

Other cases include that of Hanadi Gerges, who was detained for three days in August 2017 for satirical posts about leading politicians, Khaled Abboushi, charged with insulting the president and held in pretrial detention for two days in July 2018, Bechara al-Asmar, who was detained for ten days in May 2019 for making lewd comments involving a religious official who had recently passed away, and Mohammad Wehbe, who spent 12 days in detention for insulting the president, insulting religious symbols, and inciting sectarian tensions.<sup>317</sup>

## Role of the Judiciary

Human Rights Watch attempted to obtain statistics on the number of criminal defamation prosecutions between 2015 and 2019 in the criminal courts, the Publications Court, and the Military Court, as well as the numbers of prison sentences issued by each court. The Publications Court failed to respond to Human Rights Watch’s request while the Ministry of Justice responded to the request stating they are unable to provide the statistics we requested.<sup>318</sup>

The Head of the Military Tribunal, Brigadier General Hussein Abdallah, provided Human Rights Watch with a list of 15 cases that the Military Prosecutor initiated between October 2016 and March 2019 relating to defamation and insult charges.<sup>319</sup> Human Rights Watch

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<sup>315</sup> Human Rights Watch interview with Bassel al-Amine, Beirut, May 13, 2019.

<sup>316</sup> Human Rights Watch interview with Randa al-Amine, Beirut, December 9, 2016.

<sup>317</sup> Human Rights Watch interview with Hanadi Gerges, Beirut, April 25, 2019; Human Rights Watch interview with Khaled Abboushi, Tripoli, May 16, 2019; “Former labor union head Bechara Asmar released on bail,” *The Daily Star*, May 28, 2019, <https://www.dailystar.com.lb/News/Lebanon-News/2019/May-28/484141-former-labor-union-head-bechara-asmar-released-on-bail.ashx>; “Release of citizen after 12 day arrest for Tweets that insult the President and incite sectarian tensions” (إطلاق سراح مواطن بعد اعتقاله 12 يوماً بسبب تغريدات “تُحَقِّرُ رئيس الجمهورية وتثير النعرات الطائفية”), SKeyes Media, July 31, 2019, <http://www.skeyesmedia.org/ar/News/Lebanon/7950> (accessed September 17, 2019).

<sup>318</sup> See Appendix X for the Justice Ministry’s response to Human Rights Watch.

<sup>319</sup> Human Rights Watch interview with Brigadier General Hussein Abdallah, April 11, 2019.

was able to identify three additional defamation cases filed by the Military Prosecutor between March and September 2019.<sup>320</sup> Brigadier General Abdallah told Human Rights Watch, however, that the numbers he provided may not be exhaustive, as there is no mechanism for him to formally track defamation cases.<sup>321</sup> Only three of those individuals appeared before the Military Tribunal, and one was sentenced to imprisonment in absentia. Brigadier Abdallah subsequently declared the Military Tribunal's lack of jurisdiction in all three cases and referred them back to the military prosecutor, with a recommendation that they be transferred to the Publications Court. He told Human Rights Watch that he decided to refer all subsequent cases relating to journalism or defamation to the Publications Court, and therefore the other individuals against whom the Military Prosecutor initiated cases never appeared before his court.<sup>322</sup>

A lower military court sentenced two journalists to imprisonment in March 2019, but on appeal, the court also declared a lack of jurisdiction and referred the case back to the military prosecutor.<sup>323</sup> (See Chapter 6 below on Trials of Civilians in Military Courts.)

Using a combination of media research and interviews with activists and experts, Human Rights Watch has also documented the cases of three individuals to whom the criminal courts gave prison sentences between 2015 and 2019.<sup>324</sup> One of those individuals received nine absentia prison sentences in nine different criminal cases filed against him by the

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<sup>320</sup> Court document provided to Human Rights Watch by Adam Chamseddine; "Release of citizen after 12 day arrest for Tweets that insult the President and incite sectarian tensions" (إطلاق سراح مواطن بعد اعتقاله 12 يوماً بسبب تغريدات "تُحَقَّرُ") (رئيس الجمهورية وتثير النزعات الطائفية), SKeyes Media, July 31, 2019, <http://www.skeyesmedia.org/ar/News/Lebanon/7950> (accessed September 17, 2019).

<sup>321</sup> Human Rights Watch interview with Brigadier General Hussein Abdallah, Head of the Military Tribunal, Beirut, April 11, 2019.

<sup>322</sup> Ibid.

<sup>323</sup> Court document provided to Human Rights Watch by Adam Chamseddine; Elham Barjas, "Adam Chamseddine to the military judge: I ask for credit because I defended a vulnerable person against serious violations" (أدم شمس الدين متوجهاً) (للقاضي العسكري: أطلب التهنئة لأنني دافعت عن شخص مستضعف ضد انتهاكات جسيمة بحقه), The Legal Agenda, April 12, 2019, <http://www.legal-agenda.com/article.php?id=5457> (accessed May 10, 2019).

<sup>324</sup> These individuals are Fidaa Itani, Walid Radwan, and Hannibal Gaddafi. See, Human Rights Watch interview with Walid Radwan, businessman, Tripoli, April 25, 2019; Human Rights Watch interview with Fidaa Itani, journalist, London, April 10, 2019; "Hannibal Gaddafi sentenced to 15 months in prison," LBC Group, March 21, 2018, <https://www.lbcgroup.tv/news/d/lebanon-news/368918/hannibal-gaddafi-sentenced-to-15-months-in-prison/en> (accessed June 6, 2019).

same politician.<sup>325</sup> Human Rights Watch also identified one journalist who was given a prison sentence by the Publications Court in absentia.<sup>326</sup>

In reviewing speech-related prosecutions in the three judicial systems, Human Rights Watch documented concerns regarding the training, independence, and impartiality of the judiciary, and some judges' failure to adequately consider the public interest in the cases before them.

The system for the appointment of judges undermine the courts' independence and impartiality. The Higher Judicial Council (HJC) is responsible for recommending the appointment of judges to a specific court or judicial body. After approving the recommendations, the Minister of Justice submits them to the Ministers of Defense and Finance and the Prime Minister for their approval. The appointments become effective after the President signs on.<sup>327</sup>

The executive branch has extensive influence in the selection and appointment of judges. The Minister of Justice directly appoints five of the HJC's ten members and influences the selection of three others.<sup>328</sup> The HJC does not have financial independence, and funds are allocated to it annually through the budget of the Ministry of Justice.<sup>329</sup>

In 2018, the Human Rights Committee expressed concern about the "political pressure reportedly exerted on the judiciary, particularly in the appointment of key prosecutors and investigating magistrates, and about allegations that politicians use their influence to

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<sup>325</sup> Human Rights Watch interview with Fidaa Itani, London, April 10, 2019.

<sup>326</sup> Human Rights Watch interview with Michel Kanbour, Jal El Dib, April 11, 2019.

<sup>327</sup> "Research Papers on Judicial Reforms in Lebanon (أوراق بحثية عن إصلاح القضاء في لبنان)", The Legal Agenda, 2017, <http://legal-agenda.com/uploads/%D8%A7%D9%84%D9%88%D8%B1%D9%82%D8%A9%20%D8%A7%D9%84%D8%A8%D8%AD%8%AB%D9%8A%D8%A9%2012%20%D9%84%D9%84%D9%85%D9%81%D9%83%D8%B1%D8%A9%20%D8%AD%D9%88%D9%84%20%D8%A5%D8%B5%D9%84%D8%A7%D8%AD%20%D8%A7%D9%84%D9%82%D8%B6%D8%A7%D8%A1%20%D9%83%D9%8A%D9%81%20%D8%AA%D8%B5%D8%A8%D8%AD%20%D9%82%D8%A7%D8%B6%D9%8A%D8%A7%20%D9%81%D9%8A%20%D9%84%D8%A8%D9%86%D8%A7%D9%86%D8%9F.pdf> (accessed September 24, 2019).

<sup>328</sup> "The Career of Judges in Lebanon in Light of International Standards," International Commission of Jurists, February 2017, <https://www.icj.org/wp-content/uploads/2017/03/Lebanon-Memo-re-judges-Advocacy-Analysis-Brief-2017-ENG.pdf> (accessed September 17, 2019).

<sup>329</sup> Ibid.

protect supporters from prosecution.”<sup>330</sup> It recommended that Lebanon “take all necessary measures to safeguard, in law and in practice, the full independence and impartiality of the judiciary,” as well as “strengthen efforts to guarantee that the judiciary can carry out its functions without any form of political interference.”<sup>331</sup>

The Publications Court, a chamber in the criminal Court of Appeal, was established to look into what the Publications Law terms “publishing crimes.” However, experts have criticized the appointments to the court for not considering expertise, competence, or merit.<sup>332</sup> Experts also told Human Rights Watch that they are not aware of any systematic training that judges appointed to the Publications Court receive on international standards and best practices relating to freedom of expression.<sup>333</sup>

Lawyers who have defended individuals in defamation cases, as well as free speech experts, say that because judges in the Publications Court are not well versed on international free speech standards, they apply the law literally and are sometimes unable to effectively balance the public interest resulting from the criticism of public officials with the right of an individual to protect their dignity.<sup>334</sup> Some lawyers have jokingly referred to the Publications Court as the “morality court.”<sup>335</sup>

Concerns regarding adequate training, independence, and impartiality are also present in the speech-related prosecutions before the Military Courts (see Section below on Trials of Civilians in Military Courts).

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<sup>330</sup> Concluding observations on the third periodic report of Lebanon, International Covenant on Civil and Political Rights, United Nations, May 9, 2018, para 41.

<sup>331</sup> Ibid.

<sup>332</sup> Human Rights Watch interview with Human Rights Watch interview with Roula Mikhael, Layal Bahnam, and Tony Mikhael, experts at Maharat Foundation, August 21, 2019; Maya Mansour and Carlos Daoud, “Lebanon: The Independence and Impartiality of the Judiciary,” Euro-Mediterranean Human Rights Network, February 2010, [http://constitutionnet.org/sites/default/files/the\\_independence\\_and\\_impartiality\\_of\\_the\\_judiciary\\_in\\_lebanon.pdf](http://constitutionnet.org/sites/default/files/the_independence_and_impartiality_of_the_judiciary_in_lebanon.pdf) (accessed September 17, 2019).

<sup>333</sup> Human Rights Watch interview with Human Rights Watch interview with Roula Mikhael, Layal Bahnam, and Tony Mikhael, experts at Maharat Foundation, August 21, 2019;

<sup>334</sup> Human Rights Watch interview with Nizar Saghie, Beirut, April 9, 2019; Human Rights Watch interview with Human Rights Watch interview with Roula Mikhael, Layal Bahnam, and Tony Mikhael, experts at Maharat Foundation, August 21, 2019.

<sup>335</sup> Ibid.

Lawyers also state that some judges behave in ways that suggest bias in favor of the complainant. Article 387 of the Penal Code provides that the truth of a libelous statement is a defense if directed at a public servant. However, human rights lawyer Nizar Saghie, whose firm has represented many individuals in speech cases, told Human Rights Watch often, the judges don't give the defense adequate time to prove the veracity of the defamatory statements, and judgments are made quickly.<sup>336</sup> This problem is especially acute when the evidence is oral testimony rather than documents, as some judges refuse to listen to witnesses, Saghie said.<sup>337</sup>

Further, some defendants told Human Rights Watch that the difficulty in obtaining any documentation from the Lebanese state makes it almost impossible to provide all the evidence they need to prove the veracity of their claims in a timely manner, even when they have acted with due diligence to ascertain the truth.<sup>338</sup> Although Lebanon passed a Right of Access to Information in 2017, Lebanese institutions are often not equipped with the resources necessary to locate and provide information. Human Rights Watch has, on multiple occasions, attempted to use the Access to Information law to obtain publicly held information, with limited success.

Radwan Murtada, a journalist for the local *Al-Akhabar* newspaper, told Human Rights Watch that he lost a defamation lawsuit submitted against him by a former minister in April 2015 because he failed to provide one official document to the Publications Court. "Everything was documented, except for one missing document. I gave the number of the document to the court and asked them to find it. The judge told me that you have to get it. I wasn't able to, so he ruled against me," Radwan said.<sup>339</sup>

However, Lebanese lawyers have noted that some judges – particularly more recent appointments – are starting to issue positive rulings in speech cases and taking the public interest into consideration, in some cases citing and applying international human rights law and standards.

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<sup>336</sup> Human Rights Watch interview with Nizar Saghie, Beirut, April 9, 2019.

<sup>337</sup> Ibid.

<sup>338</sup> Human Rights Watch interview with Layal Bahnam and Tony Mikhael, Beirut, May 10, 2019; Human Rights Watch interview with Nizar Saghie, Beirut, April 9, 2019.

<sup>339</sup> Human Rights Watch interview with Radwan Murtada, Beirut, April 4, 2019; "Publications Court judgements in various cases," (أحكام لمحكمة لمطبوعات في دعاوى مختلفة), National News Agency, April 22, 2015, <http://nna-leb.gov.lb/ar/show-news/154348/nna-leb.gov.lb/ar> (accessed June 5, 2019).

In a landmark ruling for free speech in Lebanon, on October 31, 2018, the Single Criminal Judge in Beirut, Judge Abir Safa, exonerated a group of five activists who were charged with defamation against public officials, vandalizing public property, and placing ads on historical monuments. The activists had spray painted cement blocks in Beirut during protests against the proposed tax increases in 2016 with phrases such as “hands out of our pockets” and “you steal, we pay.”<sup>340</sup>

Judge Safa ruled that the criminal intent of the crime of defamation was not present in this case, as the writings “were general and directed towards the public authority as a whole rather than directed towards a particular public employee” and “were not intended to humiliate someone personally,” and therefore:

“the fact that they produced this in writing and by spraying concrete blocks is merely an expression of the freedom of opinion, which is guaranteed by Article 13 of the constitution, and hence this is a practice of this right by a peaceful means of protest that touches on issues of daily life and expresses the Lebanese people’s suffering of economic and social [problems] in various regions of Lebanon, under dire circumstances that are clear to everyone. Though the expression “you are stealing” was somewhat explicit, direct, and harsh, the court sees that these expressions, written and sprayed on concrete blocks, as the result of the social and economic reality in the country, and were expressed by the defendants, who belong to the group of civil protest – they include two lawyers and a female journalist whose daily public interests include conveying and expressing reality and public discontent – i.e. people who are socially active.”<sup>341</sup>

In another positive ruling, on December 4, 2018, the Publications Court, headed by Judge Raffoul Boustany, exonerated Dr. Naji Karam, a professor of archeology, in the defamation

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<sup>340</sup> Ali Al-Mousawi, “Special for Mahkama: Judge Safa exonerates activists in the civil movement because their writings were expressions of opinion” (خاص محكمة: القاضي صفا تبتل التعقبات بحق ناشطين في الحراك المدني لان كتاباتهم تعبير عن الرأي), *Mahkamah*, October 31, 2018, <https://www.mahkama.net/?p=10030> (accessed May 30, 2019).

<sup>341</sup> *Ibid.*

case filed against him by the former minister of culture.<sup>342</sup> During a television interview in February 2013, Karam had criticized the former minister’s mismanagement of important heritage sites. Judge Boustany ruled that “justice and the law do not justify the conviction of those who point to and expose corruption in an objective manner.”<sup>343</sup> Judge Boustany cited a 2002 decision by the European Court of Human Rights as one of the legal basis for his ruling.<sup>344</sup>

This judgment contradicted a previous judgment made by the then-head of the Publications Court, Judge Roukoz Rizk, on May 24, 2017, in which he found Karam guilty of defamation for the same criticisms of the minister that Karam had made on social media.<sup>345</sup>

The Legal Agenda has called Judge Boustany’s ruling “one of the Publication Court’s most significant judgments in more than 20 years” which will pave the way for a more progressive interpretation of the laws in relation to freedom of speech.<sup>346</sup>

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<sup>342</sup> “Maharat Foundation Report on the Occasion of World Press Freedom Day about Freedom of Opinion and Expression in Lebanon between May 2018 and April 2019,” Maharat Foundation, <http://maharatfoundation.org/media/1584/maharat-report-world-press-freedom-day-english.pdf> (accessed May 22, 2019).

<sup>343</sup> Court judgement issued by the Publications Court of Cassation on December 4, 2018, number 19/2018, <http://www.legal-agenda.com/uploads/%D9%82%D8%B1%D8%A7%D8%B1%2004-12-2018%20%D9%85%D8%AD%D9%83%D9%85%D8%A9%20%D9%85%D8%B7%D8%A8%D9%88%D8%B9%D8%A7%D8%AA%20%D8%A8%D9%8A%D8%B1%D9%88%D8%AA.pdf> (accessed May 30, 2019).

<sup>344</sup> Ibid; *Colombani and others v France* (App no 51279/99) ECHR 25 June 2002.

<sup>345</sup> “Maharat Foundation Report on the Occasion of World Press Freedom Day about Freedom of Opinion and Expression in Lebanon between May 2018 and April 2019,” Maharat Foundation, <http://maharatfoundation.org/media/1584/maharat-report-world-press-freedom-day-english.pdf> (accessed May 22, 2019).

<sup>346</sup> Nizar Saghieh, “Leading decision for the Beirut publications court in the case of the protection of antiquities” (قرار رائد (”, *المطبوعات بيروت في قضية حماية الآثار: ”لا يستقيم عدالة وقانوننا إدانة من يصوّب على الفساد والخلل بشكل موضوعي*), The Legal Agenda, December 12, 2018, <http://www.legal-agenda.com/article.php?id=5129> (accessed June 7, 2019).

## VI. Trials of Civilians in Military Courts

One of the most worrying trends witnessed in Lebanon in relation to free speech has been the trial and sentencing of civilians in military courts. Civilians who allegedly defame or insult the military institution can be tried in military courts under the relevant provisions of the Penal Code or under Article 157 of the Code of Military Justice, which criminalizes insulting the flag or army, punishable by three months to three years in prison.<sup>347</sup>

The military court system is a special judicial system that falls under the jurisdiction of the Ministry of Defense.<sup>348</sup> It is comprised of three parts, including the single military courts in the governorates, the Permanent Military Court in Beirut (commonly referred to as the Military Tribunal), and the Military Court of Cassation in Beirut.<sup>349</sup>

The military courts have a long history of trying activists, journalists, and human rights lawyers.<sup>350</sup> In recent years, the military prosecutor has brought charges against human rights lawyers and activists who have spoken out about torture by the Lebanese military. In one case, a military court found a woman guilty of “offending the military institution” for telling a journalist that she had been raped and tortured in military custody.<sup>351</sup>

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<sup>347</sup> Human Rights Watch interview with Brigadier General Hussein Abdallah, Beirut, April 11, 2019; Human Rights Watch interview with Nizar Saghieh, Beirut, April 9, 2019.

<sup>348</sup> Alef, “Guilty Until Proven Innocent: Report on the Causes of Arbitrary Arrest, Lengthy Pre-Trial Detention and Long Delays in Trial,” January 2013, <https://alefliban.org/wp-content/uploads/2016/10/ALEF-Arbitrary-Detention-2013.pdf> (accessed May 9, 2019), p. 45.

<sup>349</sup> Presentation given to Human Rights Watch by Brigadier General Hussein Abdallah, April 11, 2019, Beirut.

<sup>350</sup> See, for example, Human Rights Watch, “*It’s Not the Right Place for Us: The Trial of Civilians by Military Courts in Lebanon*,” January 2017, [https://www.hrw.org/sites/default/files/report\\_pdf/lebanono117\\_web\\_5.pdf](https://www.hrw.org/sites/default/files/report_pdf/lebanono117_web_5.pdf); “Free Speech Punished in Lebanon,” Human Rights Watch news release, April 26, 2000, <https://www.hrw.org/news/2000/04/26/free-speech-punished-lebanon>; “Lebanon: Cease Harassment of Human Rights Activist for Documenting Torture,” Alkarama, August 4, 2011, <https://www.alkarama.org/en/articles/lebanon-cease-harassment-human-rights-activist-documenting-torture> (accessed June 11, 2019); “Lebanon: Military Court Sentences Reporter in Absentia to Six Months in Prison,” Alkarama, December 6, 2013, <https://www.alkarama.org/en/articles/lebanon-military-court-sentences-reporterabsentia-six-months-prison> (accessed June 11, 2019).

<sup>351</sup> Human Rights Watch, “*It’s Not the Right Place for Us: The Trial of Civilians by Military Courts in Lebanon*,” January 2017, [https://www.hrw.org/sites/default/files/report\\_pdf/lebanono117\\_web\\_5.pdf](https://www.hrw.org/sites/default/files/report_pdf/lebanono117_web_5.pdf), p. 1.

Defendants, lawyers, and Lebanese human rights organizations have expressed concern that officials within the Ministry of Defense or Lebanese army are using the overbroad jurisdiction of the military courts as a tool for intimidation or retaliation against political speech or activism and to protect themselves and the army from criticism.

The composition of the military courts and the system for the appointment of judges undermine the courts' competence, independence, and impartiality. Military judges are appointed by the Minister of Defense, and military judges on the courts are not required to have a law degree or legal training. Military personnel serving as judges remain subordinate to the Minister of Defense during their tenure. Furthermore, access to military court proceedings is restricted, which means that human rights organizations and journalists are not able to freely monitor the trials.<sup>352</sup>

Individuals tried before the military courts and lawyers described a range of detainee rights and fair trial violations that they or their clients suffered before the military courts, including interrogations without the presence of a lawyer, ill-treatment and torture, incommunicado detention, the use of confessions extracted under torture, lengthy pretrial detention, decisions issued without an explanation, seemingly arbitrary sentences, and a limited right to appeal.<sup>353</sup>

While no statistics regarding the number of free speech related prosecutions before the military courts are available, Brigadier General Abdallah, the Head of the Military Tribunal, provided Human Rights Watch with a list of 15 cases that the Military Prosecutor initiated between October 2016 and March 2019 relating to defamation and insult charges.<sup>354</sup> Human Rights Watch was able to identify three additional defamation cases filed by the Military Prosecutor between March and September 2019.<sup>355</sup> Charges included “harming the reputation of the military institution and the Lebanese state,” “publishing comments that are offensive to the military institution and the army commander,” “defaming the

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<sup>352</sup> Ibid. p. 2

<sup>353</sup> Ibid. p. 1.

<sup>354</sup> Human Rights Watch interview with Brigadier General Hussein Abdallah, April 11, 2019.

<sup>355</sup> Court document provided to Human Rights Watch by Adam Chamseddine; “Release of citizen after 12 day arrest for Tweets that insult the President and incite sectarian tensions” (إطلاق سراح مواطن بعد اعتقاله 12 يوماً بسبب تغريدات “تُحَفِّرُ”) (رئيس الجمهورية وتثير النعرات الطائفية), SKeyes Media, July 31, 2019, <http://www.skeyesmedia.org/ar/News/Lebanon/7950> (accessed September 17, 2019).

reputation of judges in the military court,” “publishing false news,” and “insulting the military judiciary through publishing an article containing defamation.”<sup>356</sup>

Brigadier General Abdallah told Human Rights Watch, however, that the numbers he provided may not be exhaustive, as there is no mechanism for him to formally track defamation cases.<sup>357</sup>

According to media reports and court documents provided to Human Rights Watch by the military court, since October 2016, the military courts have issued at least three in absentia prison sentences against individuals accused of defamation, two of which were revoked on appeal after the military courts declared a lack of jurisdiction.

On January 10, 2018, the Military Tribunal sentenced Hanin Ghaddar, a Lebanese journalist and researcher, in absentia to six months in prison for defaming the Lebanese army under Article 157 during a 2014 conference in the United States.<sup>358</sup> Brigadier General Abdallah maintains that Ghaddar was the first and only journalist to be sentenced by his court since he assumed his position in 2016.<sup>359</sup>

“The military court hasn’t sentenced a journalist to prison time since the 1950s. Usually the military court ends with a fine. So, we were really surprised. It was shocking,” Ghaddar told Human Rights Watch.<sup>360</sup>

Brigadier General Abdallah claims he did not know that Ghaddar was a journalist at the time of his ruling against her. When she failed to appear in court twice, he issued an in absentia ruling, as dictated by law.<sup>361</sup> Ghaddar stated that she was not legally notified of the date of her first or second hearing.<sup>362</sup>

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<sup>356</sup> Court records provided to Human Rights Watch by Brigadier General Hussein Abdallah.

<sup>357</sup> Human Rights Watch interview with Brigadier General Hussein Abdallah, Beirut, April 11, 2019.

<sup>358</sup> “TWI Expert Hanin Ghaddar, sentenced to prison by Lebanese court, receives global media coverage, outpouring of support from free speech groups,” The Washington Institute for Near East Policy, January 23, 2018, <https://www.washingtoninstitute.org/press-room/view/ghaddar-conviction-press-release> (accessed May 9, 2019).

<sup>359</sup> Human Rights Watch interview with Brigadier General Hussein Abdallah, April 11, 2019.

<sup>360</sup> Human Rights Watch interview with Hanin Ghaddar, researcher at Washington Institute for Near East Policy, Washington, DC, April 18, 2019.

<sup>361</sup> Human Rights Watch interview with Brigadier General Hussein Abdallah, April 11, 2019.

<sup>362</sup> Human Rights Watch interview with Hanin Ghaddar, Washington, DC, April 19, 2019.

Ghaddar's sentencing triggered a strong response from local and international rights groups who criticized the Military Tribunal's decision and expressed solidarity with Ghaddar,<sup>363</sup> and Brigadier General Abdallah's visa to the US was subsequently rescinded.<sup>364</sup> SKeyes, the media freedom advocacy group, strongly condemned the sentence against Ghaddar, which it viewed as the "most dangerous in years because it was issued by the military court."<sup>365</sup> It continued, "the military justice is interfering in areas that fall under civil jurisdiction. This verdict is an attempt to intimidate free thinkers and muzzle freedom of expression, through a process that lacks the basic criteria of fair trial."<sup>366</sup>

On April 10, 2018, the Military Tribunal dropped its verdict against Ghaddar, declared non-jurisdiction over the case, and referred it back to the Public Prosecution with a recommendation to transfer the case to the Publications Court.<sup>367</sup>

According to Brigadier General Abdallah, the case generated a huge media backlash, so he decided to refer all subsequent cases relating to speech and defamation to the Publications Court:

From my perspective, I have more important things to do than work on cases involving Facebook posts. I deal with some of the most dangerous people in the country and with very sensitive issues that have real security implications in the country ... So I've started declaring no jurisdiction on

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<sup>363</sup> See, for example, "TWI Expert Hanin Ghaddar, sentenced to prison by Lebanese court, receives global media coverage, outpouring of support from free speech groups," The Washington Institute for Near East Policy, January 23, 2018, <https://www.washingtoninstitute.org/press-room/view/ghaddar-conviction-press-release> (accessed May 9, 2019); "Lebanon: Pattern of prosecutions for free speech," Human Rights Watch news release, January 31, 2018, <https://www.hrw.org/news/2018/01/31/lebanon-pattern-prosecutions-free-speech>; "SKeyes condemns prison sentence against journalist Hanin Ghaddar," SKeyes Media, January 18, 2018, <http://www.skeyesmedia.org/en/SKeyes-Statements/Lebanon/SKeyes-Condemns-Prison-Sentence-against-Journalist-Hanin-Ghaddar> (accessed May 9, 2019).

<sup>364</sup> "Special: Our site uncovers the story behind Washington's denying the Head of the Military Court entry," Al Kalima Online, February 20, 2018, <http://www.alkalimaonline.com/newsdet.aspx?id=262561> (accessed May 9, 2019).

<sup>365</sup> "SKeyes condemns prison sentence against journalist Hanin Ghaddar," SKeyes Media, January 18, 2018, <http://www.skeyesmedia.org/en/SKeyes-Statements/Lebanon/SKeyes-Condemns-Prison-Sentence-against-Journalist-Hanin-Ghaddar> (accessed May 9, 2019).

<sup>366</sup> Ibid.

<sup>367</sup> Human Rights Watch interview with Brigadier General Hussein Abdallah, April 11, 2019; Court document provided to Human Rights Watch by Brigadier General Hussein Abdallah; Youssef Diab, "Military tribunal drops verdict against journalist," *The Daily Star*, April 10, 2018, <http://www.dailystar.com.lb/News/Lebanon-News/2018/Apr-10/444682-military-tribunal-drops-verdict-against-journalist.ashx> (accessed May 9, 2019).

issues involving journalists from the very beginning, before they even reach the court ... It is worse for the reputation of the military institution to go through with these cases.<sup>368</sup>

Human Rights Watch reviewed the military court files relating to the 15 defamation cases that the Military Prosecutor had initiated charges between October 2016 and March 2019 and found that, in all of them, the Military Tribunal had declared a lack of jurisdiction and referred them to the Publications Court.<sup>369</sup> Local media reported that Brigadier Abdallah also declared a lack of jurisdiction regarding the case of an individual accused of defamation more recently, on July 30, 2019.<sup>370</sup>

Despite Brigadier General Abdallah's practice of referring speech cases to the Publications Court, he insisted on the legality of their prosecution in the military courts. "The highest appeals court in the Publications Court has ruled that electronic media is not in its jurisdiction," Abdallah told Human Rights Watch. "So legally, if any person is writing about the army or the security forces online, it comes under the jurisdiction of the military judicial system ... you want to change the law, fine. But you cannot mix between opinion and applying the law."<sup>371</sup>

Other judges in the military courts have not adopted the same approach as Brigadier General Abdallah. On March 7, 2019, the single military judge in Mount Lebanon, Brigadier General Antoine Touma Halabi, sentenced TV correspondent Adam Chamseddine and journalist Fidaa Itani in absentia to three-months imprisonment for publishing comments that are offensive to State Security under Article 386 of the Penal Code.<sup>372</sup> The cases of Chamseddine and Itani were referred to the single military judge rather than the Military

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<sup>368</sup> Human Rights Watch interview with Brigadier General Hussein Abdallah, April 11, 2019.

<sup>369</sup> Court records provided to Human Rights Watch by Brigadier General Hussein Abdallah.

<sup>370</sup> "Release of citizen after 12 day arrest for Tweets that insult the President and incite sectarian tensions" (إطلاق سراح مواطن بعد اعتقاله 12 يوماً بسبب تغريدات تُحقر رئيس الجمهورية وتثير النزعات الطائفية), SKeyes Media, July 31, 2019, <http://www.skeyesmedia.org/ar/News/Lebanon/7950> (accessed September 17, 2019).

<sup>371</sup> Human Rights Watch interview with Brigadier General Hussein Abdallah, April 11, 2019.

<sup>372</sup> Court document provided to Human Rights Watch by Adam Chamseddine.

Tribunal because the sentence of the misdemeanor does not exceed one-year imprisonment.<sup>373</sup>

Chamseddine's sentence arose from a Facebook post that he shared on October 30 criticizing State Security for leaking details of an investigation of a detainee who had AIDS.<sup>374</sup> Itani shared a post about the same case. Chamseddine disputed the legality of the process by which he was served, and so he did not appear in court. The judge, however, considered that Chamseddine was summoned to the court three times – the legal requirement – and issued the three-month sentence in absentia.<sup>375</sup> Itani was sentenced in absentia because he is currently in self-imposed exile.

On March 11, Chamseddine's lawyer objected to the sentence, and a hearing was set for April 4. Chamseddine did not go to the court, relying on Lebanese legal practice whereby defendants do not have to appear in court if the minor offense they are accused of is punishable by less than one year in prison.<sup>376</sup> However, Judge Halabi insisted that Chamseddine be present and rescheduled the hearing for April 11.<sup>377</sup> Chamseddine went to court on April 11, and was surprised that Judge Halabi was replaced by Brigadier General Abdallah, who declared the military court's lack of jurisdiction over this case and referred it back to the Military Prosecutor to transfer it to the competent authority.<sup>378</sup> Itani's sentence remains, however, as he did not file an appeal.

After his trial, Chamseddine insisted that “in case an offense was committed under the category of freedom of expression, its natural place is the civil court, even if the criticism was directed at a military authority.”<sup>379</sup>

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<sup>373</sup> Human Rights Watch interview with Brigadier General Hussein Abdallah, April 11, 2019; Human Rights Watch interview with Nizar Saghie, April 9, 2019.

<sup>374</sup> Human Rights Watch interview with Adam Chamseddine, April 4, 2019.

<sup>375</sup> Human Rights Watch interview with Adam Chamseddine, April 4, 2019.

<sup>376</sup> Human Rights Watch interviews with Adam Chamseddine, April 4, 2019, and Nizar Saghie, April 9, 2019.

<sup>377</sup> Human Rights Watch interviews with Adam Chamseddine, April 4, 2019.

<sup>378</sup> Elham Barjas, “Adam Chamseddine to the military judge: I ask for credit because I defended a vulnerable person against serious violations” (أدم شمس الدين متوجها للقاضي العسكري: أطلب التهنئة لأنني دافعت عن شخص مستضعف ضد انتهاكات جسيمة) (بحقه), The Legal Agenda, April 12, 2019, <http://www.legal-agenda.com/article.php?id=5457> (accessed May 10, 2019).

<sup>379</sup> Ibid.

As a result of Chamseddine’s initial sentencing, member of Parliament Paula Yaacoubian submitted a law that would remove civilians from the jurisdiction of the military courts, which she dubbed “Adam’s law.”<sup>380</sup>

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<sup>380</sup> “After the military court’s ruling against Chamseddine: Yaccoubian’s “Adam’s Law” proposal to prevent the trial of civilians in front of military courts” (على خلفية حكم العسكرية ضدّ شمس الدين: اقتراح "قانون آدم" ليعقوبيان لمنع محاكمة المدنيين) (أمام القضاء العسكري), The Legal Agenda, March 15, 2019, <http://www.legal-agenda.com/article.php?id=5395> (accessed May 10, 2019).

## VII. The Effects of Criminal Defamation

Criminal defamation laws inevitably take a significant toll on the individuals to whom they are applied. The cases often drag on for a year or longer, costing time and money and bringing considerable mental and financial stress to the defendants and their families. The use of criminal defamation laws also has a chilling effect on the speech of others, particularly those working on similar issues. When citizens face possible prison time or trials in military court for complaining about official performance, corruption, or security service misconduct, other citizens take notice and are less likely to draw attention to such problems themselves, undermining effective governance and a vibrant civil society.

### The Process is the Punishment

Although few individuals have served prison time on defamation charges, those subject to criminal prosecution have told Human Rights Watch about the negative impact of simply facing criminal investigations and trials. According to human rights lawyer Nizar Saghieh, “The prosecution scares people. At that point, the damage is done. Nobody cares about the court decision that comes three to four years later.”<sup>381</sup>

Defendants in criminal defamation cases interviewed by Human Rights Watch said they endured a number of difficult consequences as a result of the charges against them. Some were forced into self-imposed exile for fear of arrest or harassment upon return to Lebanon, causing significant stress and hardship to themselves and their families. Others endured significant financial and professional consequences as a result of the claims against them, and many explained that their prosecutions caused undue stress to their family members. Many do not hear from the police for long periods of time, leaving them confused as to whether the cases against them were still active or not.

For example, Fidaa Itani left Lebanon on August 3, 2017 shortly after he spent a night detained at the Cybercrimes Bureau due to a defamation lawsuit filed against him by a minister. Itani was receiving direct threats to his life from anonymous sources as a result of

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<sup>381</sup> Human Rights Watch interview with Nizar Saghieh, co-founder and executive director of The Legal Agenda, Beirut, April 9, 2019.

the case and so decided to seek asylum in the United Kingdom. Since he left Lebanon, the sentences issued against Itani in absentia for his peaceful activism on social media amount to 22-months imprisonment. “In reality, I lost everything. It’s not easy to leave Lebanon and live outside,” Itani told Human Rights Watch. “For almost two years, I haven’t been able to see my daughter. And work too. No institution wants to hire a journalist who brings them trouble. I haven’t worked in two years.”<sup>382</sup>

Hanin Ghaddar, who was sentenced in absentia by the military court for comments she made about the Lebanese army, also reported a fear of coming back to Lebanon. “I can’t go to my country. My father died and I had to miss his funeral,” Ghaddar told Human Rights Watch.<sup>383</sup> Although her case has been referred to the civilian courts, she has not heard from the courts and is not sure whether the case is still ongoing. Further, Ghaddar said that the powerful individuals who informed the military court about her comments against the army hold influential positions and have leverage over General Security, the agency that manages the airport. “When General Security has files on people, no one can know what is in them. So, I don’t want to risk it,” Ghaddar said.<sup>384</sup>

Charbel Khoury lost his job after he was called in for interrogation at the Cybercrimes Bureau for making a joke about a Christian saint on Facebook.<sup>385</sup> “I went back to work on August 1, 2018 and found out that the firm had fired me, without any compensation. This was the hardest part of it. I am so educated. I have a BA in maths and a Masters in data analysis. Yet, a Facebook post made me unemployed,” Khoury said. “I filed a lawsuit against the firm for compensation, but it’s been a year and there has been no movement in the case. See the hypocrisy in the judiciary?”<sup>386</sup>

Other defendants reported experiencing significant stress as a result of their summons for investigation. Anne-Marie el-Hage said she was terrified after she received a summons from the Cybercrimes Bureau due to a story she wrote detailing abuse alleged by a migrant

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<sup>382</sup> Human Rights Watch interview with Fidaa Itani, journalist, London, April 10, 2019.

<sup>383</sup> Human Rights Watch interview with Hanin Ghaddar, researcher at Washington Institute for Near East Policy, Washington, DC, April 18, 2019.

<sup>384</sup> Ibid.

<sup>385</sup> Human Rights Watch interview with Charbel Khoury, activist, Beirut, April 17, 2019.

<sup>386</sup> Ibid.

domestic worker in Lebanon. “Imagine at my age, being called in for investigation. This was the first time in 21 years of working as a journalist that I was this scared. I changed all my passwords,” el-Hage told Human Rights Watch. “I can’t tell you how scared I was when I traveled and when I passed by security [in the airport]. I haven’t done anything wrong, I know that. But one gets frightened.”<sup>387</sup> El-Hage’s children were worried for her safety as well and urged her to limit her reporting.<sup>388</sup>

Hanadi Gerges, an outspoken activist on social media, also described how she felt after receiving a call from the Cybercrimes Bureau on August 11, 2017 summoning her for interrogation. “I felt my heart fall to the ground. I started to look up posts, delete some here and there. My mom got angry and said she had warned me,” Gerges told Human Rights Watch. “I used to joke about this. It’s different when you experience it. You realize how serious it is.”<sup>389</sup>

Hani Nsouli reported significant psychological, health, and familial impacts as a result of the lawsuit filed against him.<sup>390</sup> “When you have an ongoing criminal case, you expect that you may receive a call at any time. It puts you under fear of imprisonment. Your entire thinking becomes how to build a defense. You can’t write about anything else. You are unable to see anything else,” Nsouli said.<sup>391</sup>

Many defendants’ families are bearing the consequences of the criminal process as well. For example, Michel Kanbour said that the day he was summoned to the military police, his 10-year-old daughter waited up for him past midnight. “She shouldn’t have to see her father in that situation,” Kanbour said. “And my wife, she didn’t know if I was coming back that night. So, these laws don’t just affect you individually.”<sup>392</sup>

Many individuals interviewed by Human Rights Watch are unaware whether or not the cases against them are still ongoing and have not heard from the police or courts since

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<sup>387</sup> Human Rights Watch interview with Anne-Marie el-Hage, journalist at L’Orient Le Jour, Beirut, May 17, 2019.

<sup>388</sup> Ibid.

<sup>389</sup> Human Rights Watch interview with Hanadi Gerges, activist, Beirut, April 25, 2019.

<sup>390</sup> Human Rights Watch interview with Hani Nsouli, independent political commentator, Beirut, April 3, 2019.

<sup>391</sup> Ibid.

<sup>392</sup> Human Rights Watch interview with Michel Kanbour, founder and journalist at Lebanon Debate, Beirut, April 11, 2019.

their investigation. For example, Bassel al-Amin, who was held in pretrial detention for six days over a Facebook post, is unaware of the status of his case, as he has not received any communication from the police or the courts since he was released on bail on December 12, 2016.<sup>393</sup> Similarly, Wadih al-Asmar knows that the case against him is still open, but he has not been called in for a court hearing since his investigation on September 13, 2018. Al-Asmar, who currently resides in Europe, has decreased his visits to Lebanon in the past year, as he is afraid that the court could issue a summons without informing him properly and arrest him at the airport for failing to appear in court.<sup>394</sup>

## Fines and Other Sanctions

The fines and other sanctions resulting from the criminal process have also had a significant financial and social impact on many defendants and the publications they work for. Radwan Murtada, a journalist for *Al-Akhbar*, remarked that a big part of the newspaper's budget is now reserved for fines. Although he is fortunate to work at a newspaper that is able to absorb those costs, Murtada admitted that the fines have a disproportionate impact on independent activists and journalists.<sup>395</sup> Ghassan Saud, who used to work for *Al-Akhbar* but is now the editor-in-chief of an independent publication, said that he started to feel the burden more since he started working on his own.<sup>396</sup> His fines resulting from defamation cases have ranged from 300,000 Lebanese pounds to 3 million Lebanese pounds (US\$200 – 2,000).<sup>397</sup>

The *Daily Star's* reporter, Timour Azhari, told Human Rights Watch that the verdict in his case can have a potentially devastating impact. "If you are fined 2 to 3 million Lebanese pounds (\$1,333 – 2,000) as a journalist who is already being paid a low salary, it will cripple you," he said. "And the newspaper is in financial trouble as well."<sup>398</sup>

Michel Kanbour, the founder of the independent online newspaper *Lebanon Debate*, said that the huge sums of money that he is paying for lawyers, fines, and compensation are

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<sup>393</sup> Human Rights Watch interview with Bassel al-Amine, journalism graduate, Beirut, May 13, 2019.

<sup>394</sup> Human Rights Watch interview with Wadih al-Asmar, president of the Lebanese Center for Human Rights, Europe, May 8, 2019.

<sup>395</sup> Human Rights Watch interview with Radwan Murtada, journalist at *Al-Akhbar*, Beirut, April 4, 2019.

<sup>396</sup> Human Rights Watch interview with Ghassan Saud, editor-in-chief of *Refresh*, Beirut, April 9, 2019.

<sup>397</sup> *Ibid.*

<sup>398</sup> Human Rights Watch interview with Timour Azhari, reporter for *The Daily Star*, Beirut, April 5, 2019.

preventing him from investing in and growing his website.<sup>399</sup> He said this is posing a major obstacle to his ability to do his job and to express himself freely in a manner that is guaranteed by international law.<sup>400</sup>

Another significant impact reported by defendants is that as a result of defamation cases, they have a criminal record. “This is unacceptable,” Kanbour remarked. “I am not a criminal who murdered or stole.”<sup>401</sup>

Outstanding criminal sentences, including unpaid fines, can result in arrest and detention. The Lebanese Code of Criminal Procedure permits the public prosecutor to order the arrest of an individual for 24 hours for every 10,000 Lebanese pounds (US\$6.67) owed, up to a maximum of six months, if the fine resulting from the criminal proceeding is not paid within 10 days of the receipt of the notice to pay.<sup>402</sup> Individuals are especially vulnerable to arrest when applying for documentation, including passports and national IDs. Walid Radwan, for example, stated that he is currently unable to apply for a passport due to his outstanding fine and fear of arrest.<sup>403</sup> Radwan Murtada said he is unable to obtain a criminal record check because he has two outstanding fines related to criminal defamation cases. Therefore, he can be arrested in lieu of having paid the fines. “They are treating me like a person who actually committed a crime. This is all part of the terrorism against journalism,” Radwan said.<sup>404</sup>

Further, individuals with criminal records may face discrimination in employment. Although the law does not prohibit state institutions from hiring individuals with criminal charges arising from defamation, lawyers state that those individuals may still find it difficult to find jobs.<sup>405</sup> Further, criminal records can make it less likely that individuals sentenced for defamation can obtain visas for travel and study abroad.<sup>406</sup>

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<sup>399</sup> Human Rights Watch interview with Michel Kanbour, Jal El Dib, April 11, 2019.

<sup>400</sup> Ibid.

<sup>401</sup> Ibid.

<sup>402</sup> Lebanese Code of Criminal Procedure, art. 415.

<sup>403</sup> Human Rights Watch interview with Walid Radwan, businessman, Tripoli, April 25, 2019.

<sup>404</sup> Human Rights Watch interview with Radwan Murtada, April 4, 2019.

<sup>405</sup> Human Rights Watch interview with Charbel Kareh, Beirut, May 17, 2019; Human Rights Watch interview with Layal Bahnam and Tony Mikhael, Maharat Foundation, Beirut, May 10, 2019.

<sup>406</sup> Human Rights Watch interview with Layal Bahnam and Tony Mikhael, May 10, 2019.

Criminal records resulting from defamation expire after five years. However, this period is doubled if the same crime was committed before the five-year period ended.<sup>407</sup>

## Chilling Effect on Speech

The increasing use of criminal defamation laws by powerful national individuals and the resulting threat of arrest, interrogation, and criminal sanctions has had a chilling effect on free speech in Lebanon.

Many of the individuals interviewed by Human Rights Watch reported self-censoring after their often-intimidating experiences resulting from defamation lawsuits. For example, Abbas Saleh, who was sued by the head of a political party for a Facebook post, told Human Rights Watch that, “I now pay more attention to every word. If one word like ‘thief’ caused all this, I would count not to ten, but to one thousand, before saying anything.”<sup>408</sup> Walid Radwan, who was held in pretrial detention for 18 days and abused by a security officer, voiced a similar sentiment. “I can’t write anymore. I think about something 70 times before writing and I read it 100 times before deciding whether or not to post it.” Radwan has decreased his online activity since his arrest. “I was humiliated. And I don’t trust the justice system in Lebanon.”<sup>409</sup>

Bassel al-Amin was 21 years old when he was arrested and held in pretrial detention for six days in December 2016. The experience had a significant impact on his ability to freely express himself:

To me, 2017 was a year full of fear. I avoided writing my opinion in public. After my release, to prove to myself that I wasn’t scared, I used to write and write. Eventually, I noticed that I wasn’t writing what I wanted. I knew that I was scared. I felt everything I wrote was out in the open and could lead to problems ... A lot of people ask me why did you bother? The system today

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<sup>407</sup> Human Rights Watch email correspondence with Layal Bahnam, May 10, 2019.

<sup>408</sup> Human Rights Watch interview with Abbas Saleh, Beirut, April 9 2019.

<sup>409</sup> Human Rights Watch interview with Walid Radwan, Tripoli, April 25, 2019.

immediately shows you that you're not allowed to speak freely. The system is oppressive.<sup>410</sup>

“Of course it affects your work,” journalist Anne-Marie el-Hage told Human Rights Watch.<sup>411</sup> “I have been working in the newspaper for 21 years, and I follow all the cases related to migrant domestic workers. But they [state] make you stop a bit. I was then told to ‘calm down’ and not to work on this issue while I had a lawsuit in the courts.”<sup>412</sup>

Others noted the increasing use of criminal defamation laws has created a hostile environment in Lebanon for free speech and deterred others from writing freely. Radwan Murtada, who has had more than eight defamation lawsuits brought against him in recent years, claimed that “we don’t have free speech anymore; we have restricted speech.”<sup>413</sup> Hanin Ghaddar agreed:

We haven’t seen anything like this in recent years. I lived in Lebanon until recently, and we could express ourselves on Facebook. Currently, it is the same level of intimidation as when the Syrian army occupied Lebanon. This free speech that we enjoyed for a while is over, and we are back to the pre-2005 era, but instead of the Syrian army, we have the Lebanese state.<sup>414</sup>

Experts at Maharat Foundation also told Human Rights Watch that during some of their workshops and campaigns, young people tell them that they are refraining from making comments on social media for fear of being prosecuted.<sup>415</sup>

Journalists remarked that the current climate is discouraging certain forms of political expression. The *Daily Star’s* Timour Azhari said that “we have a sort of common understanding now where we know that if we criticize certain politicians, we stand a good

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<sup>410</sup> Human Rights Watch interview with Bassel al-Amine, May 13, 2019.

<sup>411</sup> Human Rights Watch interview with Anne-Marie El Hage, Beirut May 17, 2019.

<sup>412</sup> Ibid.

<sup>413</sup> Human Rights Watch interview with Radwan Murtada, Beirut, April 4, 2019.

<sup>414</sup> Human Rights Watch interview with Hanin Ghaddar, Washington, DC, April 18, 2019.

<sup>415</sup> Human Rights Watch interview with Layal Bahnam and Tony Mikhael, Maharat Foundation, May 10, 2019.

chance of being sued or interrogated.” Azhari said that he and other friends have made comments on social media and then deleted or revised them so as to avoid prosecution.<sup>416</sup>

A freelance journalist in Lebanon who did not want to be named said that she has been wanting to write a profile about a leading politician who has been using xenophobic language to exacerbate tensions in Lebanon between the refugee and host communities, but has refrained from doing so as a result of the defamation lawsuits that she has seen affect other journalists:

I don’t have the financial backing of a big publication behind me. I’m weary of doing that work because I don’t want to get sued. Legal fees could be extremely expensive, and I can’t afford the fines if the ruling was against me.<sup>417</sup>

Another journalist at daily newspaper in Lebanon told Human Rights Watch that his editor did not allow him to write a story exposing possible corruption by a public official, stating explicitly “we will get sued.”<sup>418</sup>

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<sup>416</sup> Human Rights Watch interview with Timour Azhari, April 5, 2019.

<sup>417</sup> Human Rights Watch interview with freelance journalist (name withheld), Beirut, April 10, 2019.

<sup>418</sup> Human Rights Watch interview with journalist (name withheld), Beirut, April 10, 2019.

## VIII. International Law and Standards

### Criminal Defamation

Under international human rights law, freedom of expression is recognized as a fundamental human right, one that is essential both to the effective functioning of a democratic society and to individual human dignity. Article 19 of the International Covenant on Civil and Political Rights (ICCPR), which Lebanon ratified in 1972, provides, in part:

Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of his choice.<sup>419</sup>

The ICCPR permits states to restrict freedom of expression for the purpose of protecting the reputations of others, but there are strict conditions for such limitations. Article 19(3) sets out that:

The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order, or of public health or morals.<sup>420</sup>

As the Human Rights Committee noted in its General Comment on Article 19, restrictions on the right to freedom of expression “may not put in jeopardy the right itself.”<sup>421</sup> All

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<sup>419</sup> International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, acceded to by Lebanon on November 3, 1972, art. 19(2).

<sup>420</sup> *Ibid.* art. 19(3).

<sup>421</sup> United Nations Human Rights Committee, General Comment No. 10, Freedom of expression (Art. 19), (Nineteenth session, 1983).

restrictions must satisfy three conditions: they must be clearly provided by law, they must be designed to pursue one of the legitimate aims articulated in article 19(3); and they must be both proportional to the accomplishment of that objective and necessary for its accomplishment.<sup>422</sup>

With respect to criticism of government officials and other public figures, the Human Rights Committee has emphasized that “the value placed by the Covenant upon uninhibited expression is particularly high.” The “mere fact that forms of expression are considered to be insulting to a public figure is not sufficient to justify the imposition of penalties.” Thus, “all public figures, including those exercising the highest political authority such as heads of state and government, are legitimately subject to criticism and political opposition.”<sup>423</sup> The Human Rights Committee has further stressed that the scope of the right to freedom of expression “embraces even expression that may be regarded as deeply offensive.”<sup>424</sup>

For a variety of reasons, many of which have been illustrated in this report, criminal defamation laws are increasingly seen as inconsistent with the conditions set forth in Article 19(3). Even where they are inspired by legislators’ genuine desire to encourage people to responsibly exercise their freedom of expression, criminal defamation laws pose a particularly significant risk of violating the principles of legality, proportionality, and necessity.

Additionally, the Human Rights Committee in its General Comment No. 34 (2011) on freedoms of opinion and expression has deemed that imprisonment is never an appropriate penalty for defamation.<sup>425</sup>

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<sup>422</sup> Ibid. See also UN Commission on Human Rights, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Ambeyi Ligabo, A/HRC/7/14, Feb. 28, 2008, para. 41.

<sup>423</sup> UN Human Rights Committee, General Comment no. 34, para. 38.

<sup>424</sup> Ibid., para. 11; see also European Court of Human Rights, *Handyside v. United Kingdom*, (no. 5493/72), Judgment of 7 December 1976, ECHR 1976-V, available at [www.echr.coe.int](http://www.echr.coe.int), para. 49 (freedom of expression “is applicable not only to ‘information’ or ‘ideas’ that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population; R. v. Central Independent Television plc, [1994] 3 All ER 641 (“Freedom of [speech] means the right to [say] things which the government and judges, however well-motivated, think should not be [said]. It means the right to say things which ‘right-thinking people’ regard as dangerous or irresponsible.”)).

<sup>425</sup> UN Human Rights Committee (HRC), General comment no. 34, Article 19, Freedoms of opinion and expression, 12 September 2011, CCPR/C/GC/34, available at: <https://www.refworld.org/docid/4ed34b562.html> (accessed 11 June 2019).

In its concluding observations on Lebanon’s third periodic review on May 9, 2018, the Human Rights Committee expressed concern about, *inter alia*: “a) the criminalization of defamation, insult, criticism of public officials and blasphemy, which can be punished with imprisonment; (b) allegations of extensive interpretation of the concept of cybercrime by the Cybercrime Centre of the Internal Security Forces aimed at restricting freedom of expression; and (c) reports of the arrest and prosecution of individuals allegedly criticizing State authorities or political figures, including through social media.”<sup>426</sup>

It recommended that Lebanon “a) decriminalize blasphemy, insult and criticism of public officials; (b) consider the complete decriminalization of defamation and, in any case, countenance the application of criminal law only in the most serious cases, bearing in mind, as stated by the Committee in its general comment No. 34 (2011) on the freedoms of opinion and expression, that imprisonment is never an appropriate penalty for defamation; (c) ensure that the concept of cybercrime is interpreted consistent with the freedom of expression; and (d) refrain from suppressing the expression of dissenting opinions or censoring artistic expression beyond the narrow restrictions permitted under article 19 of the Covenant.”<sup>427</sup>

Further, when criminal defamation laws like Lebanon’s create a “chilling effect” that effectively restricts both legitimate as well as harmful speech, they not only violate the right to free expression, but can impair other human rights as well. For example, criminal defamation laws jeopardize the rights to freedom of information and to participate in public affairs. These rights are vital in a democratic society, as the Human Rights Committee has noted.<sup>428</sup>

Criminal defamation laws can also impair citizens’ exercise of their rights to assemble peacefully; form, join, or participate in and communicate with associations; know, seek, or

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<sup>426</sup> Concluding observations on the third periodic report of Lebanon, International Covenant on Civil and Political Rights, *United Nations*, 9 May 2018, para 45.

<sup>427</sup> *Ibid.*, para 46.

<sup>428</sup> UN Human Rights Committee, General Comment No. 25, The right to participate in public affairs, voting rights and the right of equal access to public service (Art. 25), (Fifty-seventh session, 1996), UN Doc. CCPR/C/21/Rev.1/Add.7, (1996), para. 25.

obtain information about human rights and fundamental freedoms; and publish, discuss, or otherwise impart such information.<sup>429</sup>

As a result of these and other considerations, the United Nations special rapporteur on freedom of expression entered into a joint declaration in 2002 with his counterparts at the Organization for Security and Cooperation in Europe (OSCE) and Organization of American States (OAS), emphasizing their shared belief that “[c]riminal defamation is not a justifiable restriction on freedom of expression; all criminal defamation laws should be abolished and replaced, where necessary, with appropriate civil defamation laws.”<sup>430</sup>

The special rapporteur has emphasized that states should take particular care to ensure that defamation laws — civil or criminal — are not used by public officials regarding matters that relate to their actions in public office, as defamation laws “should never be used to prevent criticism of government,”<sup>431</sup> and “should reflect the principle that public figures are required to tolerate a greater degree of criticism than private citizens.”<sup>432</sup> The special rapporteur repeated this call in 2008, stating, “elected officials and authorities should accept the fact that because of their prominent and public role, they will attract a disproportionate amount of scrutiny.”<sup>433</sup>

## Alternatives to Criminal Defamation

Implemented properly, civil defamation and criminal incitement laws allow states to protect national security, public order, and the reputations of citizens from unjustified attacks while still safeguarding the right to freedom of expression.

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<sup>429</sup> UN General Assembly, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders), UN Doc. A/RES/53/144, March 8, 1999, arts. 5-6.

<sup>430</sup> Joint Declaration of by the UN Special Rapporteur on freedom of opinion and expression, the OSCE Representative on freedom of the media, and the OAS Special Rapporteur on freedom of expression, “International Mechanisms for Promoting Freedom of Expression,” December 10, 2002, [http://www.osce.org/documents/rfm/2002/12/190\\_en.pdf](http://www.osce.org/documents/rfm/2002/12/190_en.pdf).

<sup>431</sup> UN Commission on Human Rights, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. Abid Hussain, UN Doc. E/CN.4/1999/64, January 29, 1999, para. 28(a).

<sup>432</sup> *Ibid.*, para 28(b).

<sup>433</sup> UN Commission on Human Rights, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Ambeyi Ligabo, A/HRC/7/14, Feb. 28, 2008, para. 79.

### *Civil Defamation*

One important step Lebanon could take would be to enact a new civil defamation legal regime that appropriately balances the individual right to freedom of expression with the state's obligation to ensure citizens have redress from unjustified attacks on their character and reputations.

But not any civil defamation provisions will meet this test. For over a decade, successive UN special rapporteurs on the promotion and protection of the right to freedom of opinion and expression have noted that, like criminal defamation laws, civil defamation laws can improperly restrict freedom of expression. In 2000, the then-rapporteur outlined a list of minimum requirements that civil defamation laws must satisfy in order to comply with Article 19 of the ICCPR. They include the following:

- Sanctions for defamation should not be so large as to exert a chilling effect on freedom of opinion and expression and the right to seek, receive, and impart information ... and damage awards should be strictly proportionate to the actual harm caused.
- Government bodies and public authorities should not be able to bring defamation suits.
- Defamation laws should reflect the importance of open debate about matters of public interest and the principle that public figures are required to tolerate a greater degree of criticism than private citizens.
- Where publications relate to matters of public interest, it is excessive to require truth in order to avoid liability for defamation; instead, it should be sufficient if the author has made reasonable efforts to ascertain the truth.
- Where opinions are concerned, they should only qualify as defamatory if they are unreasonable, and defendants should never be required to prove the truth of opinions or value statements.
- The burden of proof of all elements should be on the person claiming to have been defamed rather than on the defendant.

- A range of remedies should be available in addition to damage awards, including apology and/or correction.<sup>434</sup>

### *Incitement Law*

Properly framed incitement and “hate speech” laws are one of the few permissible criminal restrictions on the right to free expression, as recognized under the ICCPR.<sup>435</sup> Yet such laws must also satisfy a number of conditions in order to strike a proper balance between the individual right to free speech and the state’s obligation to safeguard the rights of others.

First, such restrictions must satisfy the three-part test provided by Article 19 — they must be clearly articulated in laws, they must be intended to protect a legitimate aim, and they must be both necessary to accomplish the aim and proportionate.<sup>436</sup>

Second, laws designed to prevent threats to national security should conform to additional limitations. For example, Article 6 of the Johannesburg Principles on National Security, Freedom of Expression and Access to Information, which were articulated by a group of experts in international law, national security, and human rights in 1995 and have come to be widely recognized as an authoritative interpretation of international law, states that governments should only punish statements in the name of national security if “(a) the expression is intended to incite imminent violence; (b) it is likely to incite such violence; and (c) there is a direct and immediate connection between the expression and the likelihood or occurrence of such violence.”<sup>437</sup>

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<sup>434</sup> UN Commission on Human Rights, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. Abid Hussain, submitted in accordance with Commission resolution 1999/36, UN Doc. E/CN.4/2000/63, January 18, 2000, para. 52.

<sup>435</sup> For example, article 19 of the ICCPR permits states to restrict the right to free expression where doing so is necessary for protection of national security or public order. Moreover article 20 of the ICCPR provides, “Any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence shall be prohibited by law.”

<sup>436</sup> Human Rights Committee, *Ross v. Canada*, Communication No. 736.1997, October 26, 2000.

<sup>437</sup> Johannesburg Principles on National Security, Freedom of Expression and Access to Information, adopted in October 1995 by a group of experts convened by Article 19, the International, Centre Against Censorship, in collaboration with the Centre for Applied Legal Studies, of the University of the Witwatersrand, in Johannesburg, principle 6 (emphasis added). The principles have been endorsed by the UN Special Rapporteur on freedom of opinion and expression, UN Commission on Human Rights, Report of the Special Rapporteur, Mr. Abid Hussain, pursuant to Commission on Human Rights resolution 1993/45, UN Doc E/CN.4/1996/39, March 22, 1996, para. 154 .

Third, if a law is intended to prohibit advocacy of national, racial, or religious hatred, it must conform to a different set of limitations.”<sup>438</sup>

Although Article 20 of the ICCPR provides that “any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence shall be prohibited by law,” the Rabat Plan of Action, which was signed in 2012, clarifies the scope of state obligations under this article. It opposes blasphemy and defamation of religion laws due to their incompatibility with the right to freedom of expression and religion.

The Rabat Plan also urges that prohibitions on “incitement” be reserved for the most extreme cases and require specific safeguards to prevent their abuse.<sup>439</sup> It underscores that however a state words its legislation prohibiting incitement to discrimination or hatred, it must comply with the obligation to protect the right to freedom of expression.<sup>440</sup> It states:

Article 20 ICCPR requires a high threshold because, as a matter of fundamental principle, limitation of speech must remain an exception. Such a threshold needs to be read in consonance with article 19 of the ICCPR. Indeed, the three-part test for restrictions (legality, proportionality and necessity) also applies to incitement cases, i.e. such restrictions must be provided by law, be narrowly defined to serve a legitimate interest, and be necessary in a democratic society to protect that interest. This implies, among other things, that restrictions: are clearly and narrowly defined and respond to a pressing social need; are the least intrusive measures available; are not overly broad, in that they do not restrict speech in a wide or untargeted way; and are proportionate in the sense that the benefit to the

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<sup>438</sup> UN Human Rights Council, Report of the Special Rapporteur on freedom of religion or belief, Asma Jahangir, and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Doudou Diène, A/HRC/2/3, September 20, 2006, para. 47.

<sup>439</sup> Rabat Plan of Action on the prohibition of advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility or violence, October 5, 2012, para. 17, 19, 17, 19, [https://www.ohchr.org/Documents/Issues/Opinion/SeminarRabat/Rabat\\_draft\\_outcome.pdf](https://www.ohchr.org/Documents/Issues/Opinion/SeminarRabat/Rabat_draft_outcome.pdf) (accessed September 16, 2019).

<sup>440</sup> *Ibid.*

protected interest outweighs the harm to freedom of expression, including in respect to the sanctions they authorize.<sup>441</sup>

Therefore, the Rabat Plan of Action urges governments to ensure that their laws are “guided by express reference to article 20 of the ICCPR... and should consider including robust definitions of key terms like hatred, discrimination, violence, hostility, etc. In this regard, legislation can draw, inter alia, from the guidance and definitions provided in the Camden Principles on Freedom of Expression and Equality (Camden Principles).<sup>442</sup>

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<sup>441</sup> Ibid.

<sup>442</sup> Ibid.

## Recommendations

### To the Lebanese President:

- Publicly oppose the use of criminal defamation provisions as a matter of principle.
- Call on parliament to repeal the criminal defamation provisions of the Penal Code.
- Call for criminal defamation provisions to be eliminated from the proposed new Media Law.

### To the Lebanese Parliament:

- Repeal the insult and defamation provisions of the Penal Code and replace them with civil laws.
- Amend Article 317 of the Penal Code so that only statements that amount to advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence are criminalized. The Rabat Plan of Action should be used as a guide to applying such a law.
- Amend the proposed new Media Law such that it meets international standards, specifically:
  - Defamation should never result in imprisonment, including defamation directed at the President and the army.
  - Government institutions should not be able to bring defamation suits.
  - Public figures should not be granted special protection from defamation. The law should explicitly recognize the public interest in criticism of public figures and public authorities.
  - Truth should be a complete defense to defamation, regardless of whom the defamation is directed at. In matters of public interest, the defendant should only be required to have acted with due diligence to ascertain the truth.
  - A range of remedies should be available in addition to damages, such as issuing an apology or retraction. These remedies can only be set by a judge.

- Any damages awarded should be strictly proportionate to the actual harm caused.
- Amend Article 126 of the e-Transactions law to prohibit public prosecutors from suspending social media accounts and websites.
- Amend Article 24 of the Code of Military Justice of 1968 to remove civilians and all children from the jurisdiction of the military courts.
- Amend Article 49 of the Code of Criminal Procedure to explicitly guarantee suspects the right to a lawyer during interrogations by security agencies.
- Establish effective, independent complaints bodies that can receive citizen complaints about abuse of power by prosecutors and police, recommend disciplinary action or prosecution for those found to have abused their power, and make their findings available to the public.

### **To the Minister of Justice:**

- Instruct all government officials to refrain from filing criminal defamation complaints on their own behalf or on behalf of the institutions they serve.
- Instruct the judiciary to refrain from holding in pretrial detention individuals who are accused of defamation regardless of whether or not the penalty exceeds one-year imprisonment.
- Conduct trainings for judges on international standards regarding freedom of expression.
- Ensure there are independent and transparent mechanisms to hold members of the prosecution and judiciary accountable for misuse of power and legal violations, including where they unlawfully authorized pretrial detention.
- Increase transparency in the application of defamation laws, including by providing information to the public on the number and status of defamation cases.

### **To the Office of the Public Prosecutor:**

- Refrain from filing criminal charges against individuals who defame the president or the military institution.
- Refrain from referring individuals who defame the army or security services to the military courts.

- Refrain from holding in pretrial detention individuals who are accused of speech crimes.
- Refrain from suspending individuals' social media accounts without due process and a chance to appeal the decision.
- Refer individuals accused of speech crimes to investigative judges directly rather than to security agencies for investigation.
- Prohibit the investigating security agencies from asking defendants to sign pledges or remove defamatory content.
- Instruct the investigating security agencies to respect the rights of defendants during the summons and during the investigation, including by informing them of their right to speak with a lawyer, family member, or acquaintance; to meet with a lawyer; to be referred to a judge promptly; and to remain silent.
- Increase transparency in the application of defamation laws, including by providing information to the public on the number and status of defamation cases.

### **To the Minister of Interior:**

- Instruct the investigating security agencies to respect the rights of defendants during the summons and during the investigation, including by informing them of their right to speak with a lawyer, family member, or acquaintance; to meet with a lawyer; to be referred to a judge promptly; and to remain silent.
- Prohibit the investigating security agencies from asking defendants to sign pledges or remove defamatory content.
- Hold members of the security forces accountable for abuses they commit against individuals called in for interrogation.
- Ensure that citizens are aware of the existing complaints mechanisms, that complaints are handled confidentially and swiftly, following a clear procedure, and that individuals who have been abused by members of the Internal Security Forces (ISF) can submit complaints without fear of reprisals.

## **To the Cybercrimes Bureau, ISF Information Branch, Central Criminal Investigations Office, General Security, and Military Intelligence:**

- Refrain from arresting individuals accused of speech crimes in aggressive ways and inform them of their summons at least 24 hours in advance, providing the reason for the summons and the name of the individual or entity that filed the charges.
- Refrain from asking defendants to sign pledges or remove defamatory content during or after their investigation.
- Refrain from violating the privacy of defendants during the investigation, including by asking for their phones, social media accounts, and/or passwords.
- Refrain from using violent or psychologically intimidating tactics during interrogations.

## **To the Judiciary:**

- Conduct trainings for judges, especially in the Publications Court, on international human rights standards relating to freedom of expression.
- Expand the jurisdiction of the Publications Court to include speech violations committed on electronic and social media.
- Refrain from holding in pretrial detention individuals who are accused of speech crimes.
- Take into account the public interest in issuing judgments against individuals making accusations of corruption or misconduct.
- Ensure that the sentences issued and damages awarded are strictly proportionate to the actual harm caused and the public interest served.

## **To Donor Countries:**

- Make respect for freedom of expression an integral component of all bilateral and multilateral engagement strategies with Lebanon.
- Ensure that all sponsored training programs on democracy and rule of law for police, prosecutors, judges, legislators, and relevant civil servants include instruction on freedom of expression and the importance of nonviolent criticism to the proper functioning of democracy.

- Support civil society groups assisting individuals facing criminal defamation claims.

## Acknowledgements

This report was researched and written by Aya Majzoub, Lebanon and Bahrain researcher in the Middle East and North Africa division. Charbel Salloum provided research assistance. This report was edited by Lama Fakh, executive director of the Crisis and Conflict division, Clive Baldwin, senior legal advisor, and Tom Porteous, deputy program director.

Houshig Kaymakamian, Mirna Ghanem, and Nader Durgham, interns in the Middle East and North Africa division, contributed to this report.

Human Rights Watch would like to thank the individuals facing or who have faced criminal defamation charges who agreed to be interviewed for this report.

We are also grateful to the lawyers, activists, and staff at human rights organizations, including at Maharat Foundation, Samir Kassir Foundation, Social Media Exchange (SMEX), Alef, and Legal Agenda who met with us in Lebanon and shared information and expertise crucial to this report.

## HUMAN RIGHTS WATCH

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# Annex I: Letter to the ISF Cybercrimes Bureau

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## To:

Major Albert Khoury  
Head of the Cybercrimes Bureau  
Internal Security Forces

## Cc:

First Lieutenant Ayman Tajeddine

20 February 2019

Dear Major Khoury,

I am writing to you on behalf of Human Rights Watch to request information held by your office in accordance with Law 28/2017 (The Right of Access to Information).

We would like to request the following information regarding cases your office has investigated relating to defamation, libel, and slander complaints as set out in Articles 383 – 388 of the Penal Code:

- 1) How many cases has your office investigated relating to defamation, libel, and slander complaints between January 1, 2015 and the date of this letter?
- 
- 2) How many of those investigations were taken forward and brought by a public prosecutor before the publications court?
- 3) How many of those investigations were taken forward and brought by a public prosecutor before a criminal court?
- 4) How many of those cases have been initiated by the public prosecution?
- 5) How many of those cases have been referred to you by the public prosecution based on complaints filed by public officials?

- 6) How many of those cases have been referred to you by the public prosecution based on complaints filed by private citizens?
- 7) How many of those cases have been referred to you by the public prosecution based on complaints from religious institutions or organizations?
- 8) In how many cases between January 1, 2015 and the date of this letter did the Cybercrimes Bureau request during interrogations that the accused sign a commitment to remove alleged defamatory content online or a commitment to desist from any action, expression, or speech? Were these measures authorized by the public prosecution? What is the legal basis to request such commitments be signed?
- 9) In how many cases did the accused comply with the request to sign a commitment? What happened in cases in which the accused declined to comply? In how many cases in which the accused declined to comply did the public prosecutor bring charges against him or her before either the criminal or publications court? In how many cases in which the accused did comply did the public prosecutor bring charges against him or her before either the criminal or publications court?

We would be grateful to receive your answers to these questions, as well as any additional information you deem to be relevant, by March 15, 2019. We would also welcome the opportunity to meet with you in person to discuss this topic.

Thank you for your attention to this matter. You can reach me at your convenience by phone on +961 [REDACTED] and email on [REDACTED].

Sincerely,

Lama Fakhri  
Deputy Director, Middle East and North Africa Division  
Director, Beirut Office  
**Human Rights Watch**

## Annex II: Response from the ISF

[HUMAN RIGHTS WATCH'S TRANSLATION FROM ARABIC]

Directorate General of Internal Security Forces  
Judicial Police Unit  
Special Criminal Investigation Department  
Cybercrimes and Intellectual Property Rights Bureau

Dear / Ms. Lama Faqih, Deputy Director, Middle East and North Africa Division  
Director of the Beirut Office  
(Human Rights Watch)

In reference to your request sent to us by fax on 20/2/2019 including a request for information on cases of slander, defamation and libel.

Since the Cybercrimes and Intellectual Property Rights Bureau falls under the Special Criminal Investigation Department of the Judicial Police Unit at the Directorate General of Internal Security Forces, kindly send this request to Public Relations Department at the Directorate General of Internal Security Forces – hence we will receive the request through the proper official hierarchy and prepare what is required.

Please accept our utmost respect

\*\*\*

After review, we report as follows:

- 1- How many cases of defamation, slander, and libel cases your office has investigated between January 1, 2015 and the date of receipt of this letter?

- The number of defamation, slander and libel cases between January 1, 2015 and today is around 3599

- 

Year	2015	2016	2017	2018	2019
Number	341	755	800	1451	252

- 

- 2- How many investigations were taken forward and brought by a public prosecutor before the Publications Court?

-

3- How many investigations were taken forward and brought by a public prosecutor before the Criminal Court?

- The answer to questions two and three does not fall within the purview of our office, and we would refer you to the competent court. All investigations are carried out under the supervision of the competent courts, and after the reports are sealed, they are filed with the referring party.

•

4- What is the number of cases initiated by the Public Prosecution?

- We receive assignments from the public prosecution which serve as notice to investigate into topics that fall within the purview of our office. The number of cases from January 1, 2015 through today is approximately 46.

•

5- What is the number of cases referred to you by the Public Prosecution based on complaints filed by public officials?

- The number of cases referred to us based on complaints filed by public officials is approximately 185.

•

6- What is the number of cases referred to you by the Public Prosecution based on complaints from private citizens?

- The number of cases referred to us based on complaints filed by private citizens is approximately 3346.

•

•

Yea	2015	2016	2017	2018	2019
Number	307	741	744	1368	232

•

7- What is the number of cases referred to you by the Public Prosecution based on complaints filed by religious institutions or organizations?

- The number of cases referred to us by the Public Prosecution based on complaints filed by religious institutions or organizations is approximately 22

•

8- In how many cases between January 1, 2015 and the date of receipt of this letter did the Cybercrimes Bureau request that the accused sign a pledge to remove the alleged defamatory content online, or to pledge to refrain from any action, expression or speech? Were these measures authorized by the Public Prosecution? What is the legal basis to request such pledges be signed?

- The work of our office is conducted under the supervision of and with instruction from the competent courts, in accordance with the applicable laws and procedures (The Code of Criminal Procedure, the Penal Code, the Law on Electronic Transactions and Personal Data, etc.). Thus, all investigative procedures relies on and come at the instruction of the appropriate public prosecution, and so our work is limited to initial investigation of cases referred to us, and any decision taken regarding the accused

(detention, release, proof of residence, pledge, etc.) is under the jurisdiction of the competent court.

- There are no pledges required by investigations in cases related to freedom of opinion or expression. However, we receive complaints from individuals who have been subjected to violations by other individuals—violations criminalized by the Lebanese law, such as vilification, defamation, slander, and libel via social media. And in case of such violations the appropriate court issues instructions in some cases for the violators to pledge not to subject the complainants to any further defamation or vilification.
- The number of individuals released in return for a proof of residence is approximately 1461, including those who have pledged in the investigative report not to subject the complainants [to further abuse] and to remove the electronic content at issue.
- 
- 9- In how many cases did the accused comply with the request to sign a pledge? What happened in cases in which the accused has refused to sign? In how many cases in which the accused declined to comply did the public prosecutor bring charges against him or her before either the criminal or publications court? In how many cases in which the accused did comply, did the public prosecutor bring charges against him or her before either the criminal or publications court?
  - As previously stated, the number of those released on their own recognizance is approximately 1461, including those who have pledged in the investigative record not to subject the complainants [to further abuse].
  - [illegible] cases in which the accused have refused to sign is 6.
  - As regards the remaining parts of the question, it is not within the purview of our office to answer, and we would refer you to the competent courts.

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# Annex III: Letter to the Ministry of Justice

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### MIDDLE EAST AND NORTH AFRICA DIVISION

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Eric Goldstein, *Deputy Director*  
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Tom Porteous, *Deputy Program Director*  
James Ross, *Legal and Policy Director*  
Joe Saunders, *Deputy Program Director*  
Frances Sinha, *Human Resources Director*

To: Ministry of Justice Registrar

March 27, 2019

To whoever it may concern,

I am writing to you on behalf of Human Rights Watch to request information held by the Ministry of Justice in accordance with Law 28/2017 (The Right of Access to Information).

We would like to request the following information regarding cases the criminal courts have heard relating to defamation, libel, and slander as set out in Articles 383 – 388 of the Penal Code:

- 1) How many cases have been referred to the courts based on Article 383 between January 2015 and the date of this letter?
  - a. How many of these were in relation to insults directed at public employees. How many were in relation to insults directed at judges?
  - b. How many defendants accused of insults directed at public officials were found guilty, and how many were acquitted? How many defendants accused of insults directed at judges were found guilty, and how many were acquitted?
  - c. What was the maximum fine handed down to a defendant? What was the maximum prison sentence issued?
- 2) How many cases have been referred to the courts based on Article 384 between January 2015 and the date of this letter?
  - a. How many of these were in relation to insults directed at the president? How many were in relation to insults directed at the flag or national emblem?
  - b. How many defendants were found guilty of insults directed at the president, and how many were acquitted? How many defendants were found guilty of insults directed at the flag or national emblem, and how many were acquitted?

- c. What was the maximum fine handed down to a defendant? What was the maximum prison sentence issued?
- 3) How many cases have been referred to the courts based on Article 386?
  - a. How many of these were in relation to libel directed at the president, courts, organized committees, army, public administrations, or public officials, respectively?
  - b. How many defendants were found guilty, and how many were acquitted for libel directed at the president, courts, organized committees, army, public administrations, or employees exercising public power, respectively?
  - c. What was the maximum fine handed down to a defendant? What was the maximum prison sentence issued?
- 4) How many cases have been referred to the courts based on Article 388 between January 2015 and the date of this letter?
  - a. How many of these were in relation to defamation directed at the president, courts, organized committees, army, public administrations, or an employee exercising public power, respectively?
  - b. How many defendants were found guilty, and how many were acquitted for defamation directed at the president, courts, organized committees, army, public administrations, or public officials, respectively?
  - c. What was the maximum fine handed down to a defendant? What was the maximum prison sentence issued?
- 5) How many cases have been referred to the courts based on Article 389 between January 2015 and the date of this letter?
  - a. How many defendants were found guilty, and how many were acquitted?
  - b. What was the maximum fine handed down to a defendant? What was the maximum prison sentence issued?
- 6) How many cases have been referred to the courts based on Article 474 between January 2015 and the date of this letter?
  - a. How many defendants were found guilty, and how many were acquitted?

- - b. What was the maximum fine handed down to a defendant? What was the maximum prison sentence issued?
- 7) How many cases have been referred to the courts based on Article 317 between January 2015 and the date of this letter?
  - - a. How many defendants were found guilty, and how many were acquitted?
    - - b. What was the maximum fine handed down to a defendant? What was the maximum prison sentence issued?

We would be grateful to receive your answers to these questions, as well as any additional information you deem to be relevant, by April 30, 2019.

Thank you for your attention to this matter. You can reach me at your convenience by phone on +961 [REDACTED] and email on [REDACTED]

Sincerely,  
Lama Fakih  
Deputy Director, Middle East and North Africa Division  
Director, Beirut Office  
**Human Rights Watch**

## **Annex IV: Response from the Ministry of Justice**

**Lebanese Republic  
Ministry of Justice  
The Minister**

**To: Mrs. Lama Fakih  
Director of the Beirut office - Deputy Director, Middle East and North Africa Division at  
Human Rights Watch**

**Number:** 2/2019

**Subject:** View on the request for statistical information

**Reference:** Fax sent from your end on 27/3/2019

In relation to the subject and reference mentioned above,  
We hereby attach the response of the head of the Lebanese Higher Judicial Council,  
Judge Jean Fahed, document number 65/ق/2019 of 5/4/2019, which includes feedback on  
your request for statistical information in accordance with the *Right of Access to Information  
Law*.

**Beirut, 8/4/2019  
Minister of Justice  
Dr. Albert Serhan**

**Higher Judicial Council  
The President**

Beirut, 5/4/2019

65 ص ق 2019

**To: H.E. Minister of Justice**

**Subject: View on the request for statistical information**

**Reference: Fax sent by Human Rights Watch and redirected by Your Excellency for information on 29/3/2019**

In relation to the subject and reference mentioned above, we present the following notes:

- 1- Article 3 of the *Right of Access to Information Law* defines the administrative documents as written documents, electronic documents, recordings whether visual, video or audio, and photographs in addition to all machine-readable documents, regardless of their form or specifications, held by the administration. According to the same article, administrative documents include for example ,but are not limited to: files, reports, studies, records, statistics, orders, instructions, directives, circulars, notes, correspondence, opinions and decisions issued by the Administration; in addition to contracts entered by the Administration and the documents of the National Archives.
  -
- 2- All the requests mentioned in the letter of Human Rights Watch do not fall under the category of administrative documents as per the definition of Article 3 of the *Right of Access to Information Law*, but are requests for the Administration to prepare statistical reports based on the rulings of Lebanese courts during a specific period of time; and hence these requests fall outside the framework of article 3 referenced above, which relates exclusively to the provision of copies of non-personal documents held by the Administration.
- 3- Lebanese courts do not rely on automation in its work until date and the paper-based statistical reports issued by the courts do not take into consideration the category of offences. Thus, the courts do not have currently the capacity to prepare such statistics by type of lawsuits and the outcomes of the rulings, without allocating new staff to this end.
- 4- The Higher Judicial Council welcomes any initiative Human Rights Watch can undertake to provide the necessary human and financial resources to extract the requested statistical information from the courts and prepare statistical data and analysis about it.

It was necessitated to make clear the above

Sincerely,

**President of the Higher Judicial Council  
Jean Daoud Fahed**

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## Annex V: Letter to the Ministry of Defense

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[www.hrw.org](http://www.hrw.org)

To: Ministry of Defense Registrar

March 27, 2019

To whoever it may concern,

I am writing to you on behalf of Human Rights Watch to request information held by the Military Court in accordance with Law 28/2017 (The Right of Access to Information).

We would like to request the following information regarding cases the Military Court has heard relating to defamation, libel, and slander:

- 1) How many cases have been referred to the court based on Article 157 of the Military Code of Justice between January 2015 and the date of this letter?
  - a. How many of these were in relation to insults directed at the army or its dignity, reputation, and morale? How many were in relation to insults directed at the flag?
  - b. How many defendants were found guilty, and how many were acquitted?
  - c. What was the maximum fine handed down to a defendant? What was the maximum prison sentence issued?
- 2) How many other cases relating to defamation, libel, and slander have been referred to the court between January 2015 and the date of this letter?
  - a. How many defendants were found guilty, and how many were acquitted?
  - b. What was the maximum fine handed down to a defendant? What was the maximum prison sentence issued?

c. What jurisdiction did the military court have over these cases?

We would be grateful to receive your answers to these questions, as well as any additional information you deem to be relevant, by April 20, 2019.

Thank you for your attention to this matter. You can reach me at your convenience by phone on +961 [REDACTED] and email on [REDACTED].

Sincerely,

Lama Fakhri  
Deputy Director, Middle East and North Africa Division  
Director, Beirut Office  
**Human Rights Watch**

## HUMAN RIGHTS WATCH

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Frances Sinha, *Human Resources Director*

## Annex VI: Letter to the Publications Court

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[www.hrw.org](http://www.hrw.org)

### To:

Publications Court Registrar

April 5, 2019

To whoever it may concern,

I am writing to you on behalf of Human Rights Watch to request information held by the Publications Court in accordance with Law 28/2017 (The Right of Access to Information).

We would like to request the following information regarding cases the court has heard relating to defamation, libel, and slander as set out in Articles 383 – 388 of the Penal Code:

- 1) How many cases have been referred to the court based on Article 383 between January 2015 and the date of this letter?
  - a. How many of these were in relation to insults directed at public employees. How many were in relation to insults directed at judges?
  - b. How many defendants accused of insults directed at public officials were found guilty, and how many were acquitted? How many defendants accused of insults directed at judges were found guilty, and how many were acquitted?
  - c. What was the maximum fine handed down to a defendant? What was the maximum prison sentence issued?
- 2) How many cases have been referred to the court based on Article 384 between January 2015 and the date of this letter?
  - a. How many of these were in relation to insults directed at the president? How many were in relation to insults directed at the flag or national emblem?
  - b. How many defendants were found guilty of insults directed at the president, and how many were acquitted? How many defendants were

- found guilty of insults directed at the flag or national emblem, and how many were acquitted?
- c. What was the maximum fine handed down to a defendant? What was the maximum prison sentence issued?
- 3) How many cases have been referred to the court based on Article 386?
- a. How many of these were in relation to libel directed at the president, courts, organized committees, army, public administrations, or public officials, respectively?
  - b. How many defendants were found guilty, and how many were acquitted for libel directed at the president, courts, organized committees, army, public administrations, or employees exercising public power, respectively?
  - c. What was the maximum fine handed down to a defendant? What was the maximum prison sentence issued?
- 4) How many cases have been referred to the court based on Article 388 between January 2015 and the date of this letter?
- a. How many of these were in relation to defamation directed at the president, courts, organized committees, army, public administrations, or an employee exercising public power, respectively?
  - b. How many defendants were found guilty, and how many were acquitted for defamation directed at the president, courts, organized committees, army, public administrations, or public officials, respectively?
  - c. What was the maximum fine handed down to a defendant? What was the maximum prison sentence issued?
- 5) How many cases have been referred to the court based on Article 389 between January 2015 and the date of this letter?
- a. How many defendants were found guilty, and how many were acquitted?
  - b. What was the maximum fine handed down to a defendant? What was the maximum prison sentence issued?

- 6) How many cases have been referred to the court based on Article 474 between January 2015 and the date of this letter?
  - a. How many defendants were found guilty, and how many were acquitted?
  - b. What was the maximum fine handed down to a defendant? What was the maximum prison sentence issued?
  
- 7) How many cases have been referred to the court based on Article 317 between January 2015 and the date of this letter?
  - a. How many defendants were found guilty, and how many were acquitted?
  - b. What was the maximum fine handed down to a defendant? What was the maximum prison sentence issued?

We would be grateful to receive your answers to these questions, as well as any additional information you deem to be relevant, by April 30, 2019.

Thank you for your attention to this matter. You can reach me at your convenience by phone on +961 [REDACTED] and email on [REDACTED]

Sincerely,

Lama Fakhri  
Deputy Middle East Director  
Beirut Office Director  
Human Rights Watch

## HUMAN RIGHTS WATCH

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## Annex VII: Letter to the Public Prosecutor

HUMAN  
RIGHTS  
WATCH

[www.hrw.org](http://www.hrw.org)

### To:

Judge Imad Kabalan  
Office of the Public Prosecutor  
Beirut, Lebanon

### Re: Defamation, libel, and slander cases

May 22, 2019

Dear Judge Kabalan,

I am writing to you on behalf of Human Rights Watch to request information held by your office in accordance with Law 28/2017 (The Right of Access to Information) regarding cases your office has initiated concerning defamation, libel, and slander between January 2015 and the date of this letter.

We also respectfully request a meeting to discuss these cases and other issues affecting free speech in the country.

- 1) How many cases has your office referred to investigation relating to defamation, libel, or slander directed at:
  - a. The President;
  - b. The flag or national emblem;
  - c. The judiciary;
  - d. The army;
  - e. Public administrations; and
  - f. Public officials.
  - g. How many of these cases were initiated by your office, and how many were based on reports by external entities?
  - h. How many of the cases were referred to the judiciary after investigation, and how many cases were closed after investigation?
- 2) How many cases has your office referred to investigation relating to insulting religion?
  - .

- a. How many of these cases were initiated by your office, and how many were based on reports by external entities?
  - b. How many of the cases were referred to the judiciary after investigation, and how many cases were closed after investigation?
- 
- 3) How many cases has your office referred to investigation relating to inciting sectarian tensions?
  - a. How many of these cases were initiated by your office, and how many were based on reports by external entities?
  - b. How many of the cases were referred to the judiciary after investigation, and how many cases were closed after investigation?
- 
- 4) How many cases has your office referred to investigation relating to insulting foreign officials or damaging Lebanon's relations with foreign countries?
  - a. How many of these cases were initiated by your office, and how many were based on reports by external entities?
  - b. How many of the cases were referred to the judiciary after investigation, and how many cases were closed after investigation?

We would be grateful to receive your answers to these questions, as well as any additional information you deem to be relevant, by June 15, 2019.

Thank you for your attention to this matter. You can reach me at your convenience by phone on +961- [REDACTED] and email on [REDACTED].

Sincerely,

Lama Fakhri  
Acting Executive Director, Middle East and North Africa Division  
Director, Beirut Office  
**Human Rights Watch**



Over the past few years, Lebanon has witnessed an alarming increase in attacks on peaceful speech and expression. The country's criminal defamation laws, which authorize imprisonment up to three years for peaceful speech, have been used against citizens who have written about pressing social issues, including corruption. Government data indicates a 325% increase in defamation cases for online speech between 2015 and 2018.

Based on research conducted over the course of a year and extensive interviews with defendants in criminal defamation cases, lawyers, government officials, and civil society, Human Rights Watch found that the prosecution, security agencies, and judiciary behaved in ways that suggested bias in favour of the complainants. These patterns illustrate the potential for public officials, religious groups, and security agencies to misuse criminal defamation laws as a tool for retaliation and repression.

Individuals who had been sued faced a number of serious consequences as a result of the criminal process, including physical abuse and privacy violations during interrogations, pretrial detention, family separation, and considerable mental and financial stress. The increasing use of criminal defamation laws has had a chilling effect on free speech in Lebanon.

Human Rights Watch calls on the Lebanese parliament to repeal the defamation provisions in the penal code and replace them with civil laws.

*(above) People protest the escalating crackdown on free speech in Lebanon at the Samir Kassir Garden in Beirut, Lebanon on July 24, 2018.*

*© 2018 Wassim Samih Seifeddine/ Anadolu Agency/Getty Images*

*(front cover) An activist holds a computer keyboard and makeshift handcuffs in downtown Beirut on July 24, 2018, during a protest against a recent wave of prosecutions for peaceful speech.*

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