



SEEDS for Legal Initiatives
UPR – Report on Restricting Freedom of Expression
Lebanon
09 July 2020

The Lebanese authorities' attempts to stifle free speech and opinion in the country underwent an alarming upsurge since the mass protests that took place in 2015¹. These attacks have further escalated in the wake of the nationwide protests that began on October 17, 2019². Voices protesting the corrupt practices of politicians and demanding accountability are met with investigations, arrests and repression of free speech.

While Lebanon's constitution guarantees freedom of expression, the Lebanese penal code criminalizes the defamation of public officials and authorizes imprisonment of up to one year in such cases. The penal code³ also authorizes imprisonment for up to two years for insulting the president and up to three years for insulting religious rituals. The military code of justice criminalizes insulting the army, an offence allowing military courts to try civilians and is punishable by up to three years in prison. Laws that allow imprisonment over peaceful criticism of individuals or government officials are incompatible with Lebanon's international obligations to protect freedom of expression.

According to Amnesty International, at least 75 individuals have been taken into custody and interrogated since October 2019 for daring to publicly criticize the authorities on their social media platforms². Protestors were subjected to tear gas, disproportionate use of force and many were detained for hours or even days without being charged⁴.

¹ Human Rights Watch, 2020. "There Is a Price to Pay. Retrieved 8 July 2020, from <https://www.hrw.org/report/2019/11/15/there-price-pay/criminalization-peaceful-speech-lebanon>

² Amnesty, 2020. لبنان: ينبغي على الأجهزة العسكرية والأمنية وضع حد لمضايقة النشطاء والصحفيين. Retrieved 8 July 2020, from <https://www.amnesty.org/ar/latest/news/2020/07/lebanon-military-and-security-institutions-must-end-harassment-of-activists-and-journalists/>

³ Lebanese Penal Code articles: articles 384, 386, 388, 473, 474

⁴ Human Rights Watch, 2020. Lebanon: Police Violence Against Protesters. Retrieved 8 July 2020, from <https://www.hrw.org/news/2020/01/17/lebanon-police-violence-against-protesters>

In its report “Monitoring Freedom of Expression and Media during the Revolution”, Maharat Foundation documented summons by the cybercrime bureau, intimidation campaigns and cyber bullying of journalists and activists in addition to arbitrary arrests of and attacks on protestors, media correspondents and human rights defenders from October to December 2019⁵. For instance, 5 minors were arrested by the military intelligence for “sabotaging public and private property” after they removed a banner in front of the Free Patriotic Movement Center in Hammana, Mount Lebanon⁵. Lebanese activist Ms. Al Khatib was arrested after posting a tweet criticizing the president and was charged by the military court with visiting Israel and “dealing with spies of the Israeli enemy”; a charge that is increasingly being used to silence critics⁶.

Reports documenting the crackdown on freedom of expression since the start of the revolution in October 2019 highlight the increased intolerance of “insulting” religious figures and beliefs⁵. It is however important to emphasize on two landmark cases that took place in 2018 and 2019. In July 2019, the members of the Lebanese band Mashrou’ Leila were summoned for interrogation after lawyers affiliated with a religious group submitted a complaint accusing the band of insulting religious rituals and inciting sectarian tensions. The band was forced to remove social media content considered offensive and its concert that was expected to take place during a music festival in August 2019 was ultimately cancelled by organizers. Activist Charbel Khoury was interrogated in July 2018 after he posted a sarcastic tweet mentioning a Christian saint¹.

The prosecution and security agencies have often resorted to intimidate and silence those under arrest. Citizens who were arrested for expressing their opinions in the last few months describe a range of physical and psychological interrogation tactics they believed were intended to humiliate, punish, and deter them from publishing content or expressing opinions deemed to be insulting to or critical of powerful people. Some were also illegally pressured to sign pledges promising not to post defamatory content about the complainant in the future or to remove their offending content immediately, sometimes before even being charged⁷.

⁵ Maharat Foundation, 2020. Monitoring Freedom of Expression and Media During the Revolution. Retrieved 9 July 2020, from <http://www.maharatfoundation.org/en/foelrevolution>

⁶ The National, 2020. Kinda Al Khatib: Lebanese activist accused of spying for Israel. Retrieved 9 July 2020, from <https://www.thenational.ae/world/mena/kinda-al-khatib-lebanese-activist-accused-of-spying-for-israel-1.1037558>

⁷ Middle East Monitor, 2020. Retrieved 8 July 2020, from <https://www.middleeastmonitor.com/20200704-freedom-of-expression-is-under-threat-in-lebanon/>

Furthermore, restrictions and oppression of the press continue to soar earning Lebanon a rank of 102 on the 2020 World Press Freedom Index⁸. Since October 2019, we have been witnessing an intensification in the harassment and subpoenaing of journalists and bloggers who speak up against corruption and abuse of power. Additionally, armed forces have, more than once, used excessive force with reporters on the ground^{6,9}.

Moreover, and in an effort to control the spread of COVID-19 in Lebanon, the Lebanese government issued several decrees and decisions that, arguably, helped reach the intended goal: 5 months into the epidemic, cases of COVID-19 infections in Lebanon are still manageable (279 cases / 1 Million as of July 8th)¹⁰ and the capacity of the Lebanese healthcare system to provide care for severe cases of the novel coronavirus has been maximized¹¹. However, a closer study of these measures reveals that they were not always effective in reducing the risk of transmission, may have violated the Lebanese Constitution, infringed on the people's freedoms and civil liberties and threatened their livelihoods in an already wrecked economy.

Under the decree 6198 issued on 15/3/2020, a state of public mobilization was announced and was followed by a number of decisions by the Lebanese government. These were sometimes used as a pretext to restrict freedoms of expression and assembly or for the use of force by armed forces as a means to impose the new measures. For example, under the pretext of imposing a curfew initially from 7 PM to 5 AM, armed forces destroyed the tents of protestors that had been pitched in Downtown Beirut's Martyrs Square since the start of the Lebanese Revolution on October 17th, 2020 and had become a symbol of the ongoing resistance. They also forcefully removed the peaceful demonstrators¹².

⁸ Reporters without Borders, 2020. Lebanon: Highly politicized media, free speech under attack | Reporters without borders. Retrieved 8 July 2020, from <https://rsf.org/en/lebanon>

⁹ ٢٠٢٠ مايو / أيار، التقرير الشهري، المشرق - التقرير الثقافي والإعلامية والتقافية في المشرق. (2020). Retrieved 8 July 2020, from <https://www.skeyesmedia.org/ar/News/Reports/15-06-2020/8634>

¹⁰ Coronavirus Update (Live): 11,981,313 Cases and 547,324 Deaths from COVID-19 Virus Pandemic - Worldometer. (2020). Retrieved 8 July 2020, from <https://www.worldometers.info/coronavirus/>

¹¹ Health Minister announces readiness of 10 government hospitals to confront coronavirus. (2020). Retrieved 24 June 2020, from <https://www.mtv.com.lb/en/News/Local/1038155/Health-Minister-announces-readiness-of-10-government-hospitals-to-confront-coronavirus>

¹² Lazkani, S. (2020). Gov't Used Coronavirus Curfew in Lebanon To Remove The Revolution's tents from Martyr's Square. Retrieved 24 June 2020, from <https://www.the961.com/govt-used-curfew-to-remove-revolutions-tents-beirut/>

To make matters worse, on June 15, 2020, the country's top prosecutor ordered security agencies to investigate social media posts that are offensive to the president relying on the country's criminal defamation and insult laws and, thus, drastically increasing the arrests and interrogations of citizens who express their opinions via tweets or posts¹³.

While the parliament is debating a new media law that would amend the existing defamation provisions for published content, many fear it will impose new unacceptable restrictions on freedom of expression and that, if passed, would set Lebanon even further behind in protecting free speech. For instance, the new bill does not eliminate prison sentences for alleged defamation and in some instances increases the prison penalties and multiplies the fines. The bill also imposes new complex conditions for the pre-authorization of online media platforms and considerably increases the required registration fee¹⁴. Despite repeated promises by parliamentarians to engage civil society in the drafting process, the parliament is refusing to share the most recent version of the draft law. Furthermore, the meetings of parliamentary committees tasked with reviewing and amending the draft law are not publicly announced nor are they open to the public¹⁴.

At this critical intersection for the country, the priority should be to protect people exposing corruption rather than prosecuting them. We believe the following steps are necessary to put a stop to the oppressive measures taken by the Lebanese government and guarantee freedom of expression for all in agreement with the Lebanese Constitution and International treaties ratified by Lebanon:

1. Prohibit the disproportionate use of violence by armed forces against peaceful protestors in accordance with the recommendations of UN experts issued in November 2019¹⁵.
2. Decriminalize defamation and insults and classify them as civil offenses that do not carry any prison sentences. A clear separation between actions that reflect the mere enjoyment of one's freedom of expression and misdemeanors should be legally defined.

¹³ National News Agency, 2020. Judge Oueidat orders investigation into social media posts insulting presidency of republic. Retrieved 8 July 2020, from <http://nna-leb.gov.lb/en/show-news/116619/Judge-Oueidat-orders-investigation-into-social-media-posts-insulting-presidency-of-republic>

¹⁴ Maharat Foundation, 2020. Recalling the Media Law Proposal. Retrieved 9 July 2020, from <http://www.maharatfoundation.org/en/recallingmedialawproposal>

¹⁵ OHCHR | Lebanon: UN experts decry incidents of excessive force against protesters. (2020). Retrieved 9 July 2020, from <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25354&LangID=E>

3. Recognize the public's legal right to criticize and oppose public figures and authorities and strip all public figures, including the president, of any special protection from defamation or insult.
4. Guarantee that the truth will be the only defense against 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.
5. Decriminalize blasphemy and defamation or insults to religion.
6. Criminalize only those statements that constitute hate speech, discrimination or incitement to violence. The law should clearly define what is meant by each of these terms, using the Rabat Plan of Action¹⁶ as a Guide.
7. Prohibit government institutions, including the army and security agencies, from suing citizens for defamation or insult.
8. Prohibit trying civilians and all children by military courts.
9. Remove all requirements for licensing of journalists and pre-authorization of publications.

¹⁶ OHCHR, 2013 | The Rabat Plan of Action. Retrieved 9 July 2020, from <https://www.ohchr.org/en/Issues/FreedomOpinion/Articles19-20/Pages/Index.aspx>