

Introduction:

Hundreds of Lebanese, Palestinians and Jordanians are currently detained, or have rather “disappeared” in Syria. They are primarily victims of the regional conflict and political struggles dominating the region. Most of the arrests took place in the context of the Lebanese war, between 1975 and 1990, or during the conflict between Syria and the Palestine Liberation Organization (PLO) in the 1980s. Most of those taken prisoner were suspected of fighting for the Lebanese Army or one of the many militias that sprang up when the civil war began. However, most Lebanese were arrested or abducted without any legal framework by Syrian forces operating in Lebanon, or were handed over by Lebanese military intelligence or militias allied to Syria during the war. Prisoners were arbitrarily arrested, some two decades ago and remain in prolonged and often secret detention in Syria. Most remain in prison without charge or trial. Others were sentenced in secret summary trials where even the charges and the sentences were not known by the defendants. Scores of those arrested "disappeared" after arrest by the Syrian security services; though some were later found to be held in Syrian prisons, others remained "disappeared". Relatives and friends who have inquired for years about the fate of the detainees have been met with a wall of silence. Although some of those who have "disappeared" may have

been executed without jurisdiction, most are still believed to be alive in unacknowledged detention. In parallel, Syria's leaders say they released the last of their Lebanese prisoners in December 2000. But human rights groups, as well as the U.S. government, do not place much credibility in the assertion. A list of 280 Lebanese that have been taken to Syrian jails and never released since has been compiled by Lebanese groups and families of the detainees. According to Kamal Battal a human rights activist, many mothers have used up everything they own trying to pursue anyone that would give them hope of seeing their sons again even for a few moments, many of which turns out to be false hopes. Other families have been left to wonder whether their sons and husbands are alive or dead and, if alive, whether they are among the many whom, according to human rights groups are being tortured in Syrian jails. Since 2000, the Syrian government has quietly released at least a dozen prisoners, according to Ghazi Aad, the director of families of Lebanese held in Syria. Aad said there was good reason to believe that the Syrians were holding even more than the 280 people whose names his organization had compiled. This paper is an attempt to envision the violation of human rights by detaining Lebanese prisoners in Syria, by using the UDHR and the ICCPR as HR instruments, while afterward applying these violations on the Syrian constitution. Our research

was based mainly on three interviews, the first one was held with Mr. Kamal Battal a human rights activist that has worked with prisoners held in Syria and their family, an interview that shed light on the subject. The second and third were held with Mr. Ali Abou Dehn and Dr. Joseph Hallit, two previously held prisoners in Syria. These were very fruitful and moving interviews in which testimonies about their time in Syria was shared. Their testimonies are found in the appendix, where they reveal three kinds of human rights violations: arbitrary detention and long-term detention without charge or trial, violation of the right to a fair trial, and torture and ill-treatment.

Human rights violation under the UDHR and ICCPR:

The imprisonment of Lebanese citizens in Syria and their ill treatment have raised many concerns that remain unresolved. Many of the detentions are held incommunicado without charge or fair trial while others are sentenced for lengthy prison periods after trials that fail to meet fair international trial standards. Additionally, the fate and status of political

suspects arrested in previous years, remains unknown. While the government denies the detention of any of them, the task to have any information on their whereabouts becomes a very difficult one. But many of the released prisoners from Syria have given testimonies on their previous status and the treatment they have received. Grave human rights violations are taking place in Syrian prisons and clear violations of the Universal Declaration of Human rights. Since this paper focuses on the violations of human rights according to the UDHR, the latter and the International Covenant on Civil and Political Rights (ICCPR) will be used as a reference for these violations. The treatment of Lebanese prisoners in Syria and their imprisonment violates many articles of the UDHR and the ICCPR. There are three main human rights concerns to focus on:

- i) Arbitrary Detention and Long-term Detention without Charge or Trial
- ii) Violations of the Right to Fair Trial
- iii) Torture and Ill-Treatment

i) Arbitrary Detention and Long-term Detention without Charge or Trial

The arrested suspects, like in the case of Mr. Abou Dehn, have been subjected to long term detention without charge or trial and were denied the

most basic rights guaranteed by international human rights standards. Mr. Abou Dehn was never brought before a judge or a judicial authority, and hence he was never able to defend himself from these accusations. According to both article 9 from the UDHR and the ICCPR this is a violation of human rights.

*UDHR- **Article 9:** No one shall be subjected to arbitrary arrest, detention or exile.*

*ICCPR- **Article 9:** (1) No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law*

Every arrest and detention that is arbitrary or inconsistent is a breach of both articles; hence, arresting someone because he belongs to the Lebanese Forces or to any other political movement is a clear violation of this article. The detention of someone for an arbitrary reason is an even more severe violation. The detention of human beings like Mr. Abou Dehn or Dr. Hallit for such a long period is an abuse of the article and their fundamental human rights.

ii) Violations of the Right to Fair Trial

According to Kamal Battal a human right activist, many of the prisoners are brought in mass trials, or individual ones that would not qualify as fair in any possible way under international standard. Many cases are similar to the

case of Dr. Hallit where the prisoner spends many years in detention without charge or trial. Most of the trials even if they take place are unfair trials. According to article 10 and 11 from the UDHR, and the article 14 and 9 (2) from the ICCPR that are stated below, there is an obvious violation of human rights.

*UDHR- **Article 10:** Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.*

*ICCPR- **Article 14:** "...everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law."*

The right to a fair trial is a norm of international human rights law designed to protect people from the unlawful and arbitrary curtailment or deprivation of other basic rights, most notably the right to life and liberty. No such trial was provided to any of the illegally detained. They were arrested and sentenced to imprisonment without a trial let alone a fair trial. Dr. Hallit was not even allowed to see his own file, and was forced on several occasions to sign blindly on papers. A fair and impartial public trial was to be provided in both cases where justice was to decide their guilt or innocence. No trial is likely to be fair, nor will it be seen to be fair, if the people in charge of passing judgment and sentence lack independence or

impartiality. A lack of bias in the judiciary is absolutely fundamental for a trial to be a fair one. Hence, a fair trial would be one where the judges would not act in a way that would promote one side and giving any advantage or support to the latter. Everyone has the right for prompt justice, one that is to be quick and efficient (Article 14(3) (c) of the ICCPR states that everyone is entitled "*To be tried without undue delay*"). There should be equality before the law: Article 14(1) of the ICCPR provides that "*All persons shall be equal before the courts and tribunals*". This means that everyone must be granted, without discrimination of any kind, equal access to a court, and that fair trial guarantees must be equally available to all. Everyone is entitled for a public hearing with media presence: Article 14(1) of the ICCPR guarantees the right to a public hearing as an essential element of a fair trial. The hearing should as a rule be conducted orally and publicly, and the court or tribunal should make available information about the time and venue of the hearing. The public and the media may be excluded from part or all of a trial but only in exceptional circumstances (such as if material in the case would genuinely threaten national security if publicized) and for specific reasons, as spelled out in the article.

Article 11: *(1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense.*

The presumption of innocence inflicts a moral obligation upon the accusing party for the search of solid proof before any trial. In our case, the Syrian government has the responsibility to provide valid proof for any accusation they made or any justification for their arrest. The accused is considered to be innocent until proven guilty (also found in Article 14(2) of the ICCPR). An important element here is the application of this article which is the difficult part. A fair trial is definitely a must because otherwise there would be no real value for this article. A violation of the previous article would systematically be a violation of this one.

*ICCPR- **Article 9** : (2) Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.*

*ICCPR- **Article 14**: (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it*

According to article 9(2), it is a prisoner's right to be informed of the reason of his arrest. While article 14 (d) states that he is to have the right of having a lawyer, someone to help him defend himself by being a legal assistance.

iii) Torture and Ill-Treatment

According to Battal, a pattern of torture and ill treatment by Syrian guards is a well documented fact which is backed by hundreds of testimonies. Torture has been used as a means of extracting information, a mean of punishment and sometimes as a daily routine with no real purpose. Most common methods of torture reported to Amnesty International: *Al falaqa*-beatings on all part of the body; *Al kursi al Alman*i (The German chair) - a metal chair with moving parts to which the victim is tied by the hands and feet, the back of the chair bends backward causing pressure on the neck and limbs while causing an extension of the spine. Many methods of torture are reported to be applied on prisoners. These treatments are in clear violation of article 5 of the UDHR and article 10 (1) of the ICCPR. Similar information is found in Article 7 of the ICCPR.

UDHR- **Article 5**: *No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.*

ICCPR- **Article 10 (1)**: *All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.*

The most important breach of the UDHR is the violation of article 5. Degrading punishment and in our case, forcing a prisoner to “eat” a bird is included as both cruel and inhuman. The “breathing exercise” is a clear

breach of article 5: flogging body parts, forcing them to lie on their backs and raise their legs to beat them until they bleed; forcing prisoners to lie on their stomachs while the guards step on their heads, necks or backs or whip them. The imprisonment of these prisoners is similar to the imprisonment for life, since all hope of freedom and even survival is taken away. This fact alone is considered a cruel punishment, and is breach of article 5. The ill treatment of prisoners, their constant torture, the dehumanizing, degrading treatment, and the bad conditions they face are considered as a violation of the UDHR under this article. Article 14 (3) (g) of the ICCPR, states that in the determination of any criminal charge against him, everyone shall be entitled to the right to “Not be compelled to testify against himself or to confess guilt”: This article forbids the compelling of defendants to testify or confess guilt. And the article 15 of the convention against torture, states that *“each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made”*. Hence, the statements extracted through torture are inadmissible and cannot be used as evidence against the accused which discourage the violation of article 5 of the UDHR. Similarly article 10(1) of the ICCPR demands that anyone who has been arrested be treated with

humanity and respect keeping him in humane conditions. This imposes a positive obligation on Syria to provide reasonable conditions of detention and to respect detainees' rights, something that is done accordingly (See Appendix 1&2).

In conclusion, these standards address fundamental rights and freedoms that are violated by detaining Lebanese prisoners in Syria and the most important ones are as follows: Freedom from arbitrary arrest and detention, rights for a lawyer and a fair trial, right to inform family of the arrest and right to be free from torture.

All the above articles and human right foundations have been bluntly violated and accountability remains unseen, even worse unheard of.

These violations under the Syrian Law:

The Lebanese prisoners that are detained in Syrian prisons abide by the Syrian constitution. We have analyzed the above violations of human rights with the detention of the Lebanese prisoners in Syria under the UDHR and the ICCPR. In this part we look into the Syrian constitution to approve that the breach of these rights is also true under the constitution. In part 4 of

the Syrian constitution that was adopted the 13th of March, 1973, on Freedom, Rights and Duties, the article 28 on defense states the following:

- (1) Every defendant is presumed innocent until proven guilty by a final judicial decision.
- (2) No one may be kept under surveillance or detained except in accordance with the law.
- (3) No one may be tortured physically or mentally or be treated in a humiliating manner. The law defines the punishment of whoever commits such an act.
- (4) The right of litigation, contest, and defense before the judiciary is safeguarded by the law.

Since the Syrian government has signed the Universal Declaration of Human Rights, it has inserted these rights in the constitution and has made them binding. Hence, article 11 of UDHR is taken into consideration in the constitution and is in accordance to article 28 (1). This article coupled with part (2) of the article would prohibit under the Syrian Constitution any detention of a prisoner unless he is proven to be guilty. Additionally, torture is prohibited by the Syrian Constitution (Article 28) and punishable by imprisonment under the Penal Code (Articles 319 and 391). Torture has been used as a means of extracting information and also as a form of

punishment. Methods of torture have been used on prisoners, some of which I have cited previously. All of these acts are prohibited under the Syrian constitution and should be punished. Similarly, I may add that the conditions in which the prisoners are held (Especially in Tadmur Prison), which fall short to the Standard Minimum rules for the Treatment of Prisoners adapted by the UN in 1977, are themselves forms of torture that could be considered cruel, inhuman and degrading treatment. Those should be punished: The dormitories are filthy, damp, cold in winter, very hot in summer, and infested with cockroaches and other insects. There are no beds; Space for sleeping is usually very restricted because the dormitories are overcrowded. Some reports have claimed that at times prisoners do not even have enough space to lie down on their backs (Refer to Appendix 1). Similarly the food in very small rations is inadequate. Furthermore, article 28 (4) states that it is a right to have the opportunity to stand in defense before the judiciary. Hence, the Syrian constitution prohibits the actions that are happening in Syrian prisons with the Lebanese prisoners.

In conclusion, the incommunicado detention of Lebanese people in Syria, which many are feared to be tortured and held in very harsh and bad conditions, is a human right issue that we can no longer ignore. They are detained arbitrarily and imprisoned for many years even decades in some

cases without charge or trial. The right for a fair trial is not at their disposal and most importantly they are tortured and treated in a cruel, dehumanizing, degrading, and humiliating way. Both the UDHR and the ICCPR approve that these are grave human rights violations that should be dealt with accordingly. Additionally, the Syrian constitution also approves that these are indeed violations that are punishable by the law. Hence, these are also violations of the Syrian constitution. Most of these prisoners are prisoners of conscience, detained for exercising their right to freedom of expression. These violations have endured for decades and it is a matter that should be dealt with urgently: It is no longer acceptable to remain silent! Luckily, human rights associations continue to increase pressure on the responsible government to be more active and efficient on the matter, especially knowing that many Lebanese are still held in Syria and maybe start demanding compensation for the harm done to the Lebanese people and their families.

Appendix

Appendix 1: Case of Ali Abou Dehn

“I ask all people to pray and ask God for forgiveness because Hell is too dreadful. I just came back from it.” (Abou Dehn, 2007). This is how Ali Abou Dehn chose to start his testimony claiming that the Tadmur prison

(also known as the Palmyra prison) where he was held incommunicado against his will and for no justifiable reason, was in fact Hell on earth.

Part of the Movement for the Lebanese Youth, he was a strong activist against the Syrian presence in Lebanon. As the war started and the situation got worse, Ali decided to leave the country for Australia. Since all embassies were shut down, one had to do his formalities in either Syria or Cyprus. Ali chose Syria where he was caught by the Syrian internal forces in 1987. He was detained in Tadmur prison for five years and afterwards transferred to Sidneya for eight years.

In Tadmur, he was placed in a room with dimensions of sixteen meters by five meters and forty centimeters (16*5.40), with no beds, one toilet, and around a hundred and fifty-three cellmates. The walls were perforated by bullets and marked with shattered blood reminding the detainees what type of risks they were to face every day. An opening was cut through the ceiling in order for the guards to be able to constantly supervise leaving them with no privacy. Looking up towards the trap was a forbidden act with regrettable consequences. The trap was used by the guards to spy on the detainees and many times in order to make the prisoners play cruel games for their own enjoyment. A single toilet was available for the use of the 153 detainees. Four soap bars were provided for each one, for the use of

hygienic purposes, laundry and doing the dishes, which was supposed to last for around twenty days. The clothes they wore were the same for the time they were sentenced. No beds were provided for the detainees, they were to sleep on the floor. Since the cell was too small to fit so many detainees they were squeezed against each other in a way that made them sleep on one side without being able to lie on their backs, but in opposition one another (The head of one prisoner will be between the legs of two of his cellmates). In addition to that, they were forbidden to move at night and were threaten by the guards if they were to do so. Hence, the usage of the bathroom was forbidden and one had to manage while staying in the same position he was squeezed into. The floor of the room was made of broken cement with differences in the level of the floor, which created another burden for the detainees. The food was given in ridiculously small portions (for example one roasted chicken was given for forty persons, i.e. they divide it into one cup per five persons), however the cellmates used to share everything equally. The only medical care that the prisoners had was from a cellmate previously practicing medicine. The prisoners were to be degraded and to lose their names; they were called by numbers only. Ali held the number thirt

انا من المعذبين في السجون السورية فيّ انا انتهكوا كل حقوق اوتجازوا حدودها كلها ومش
بس انا طبعا بعني عن اكثر من عشرة الاف لبناني زاروا السجون السورية غصب عنن سحبوا

من بيوتن تجرجروا وأكلوا قتل وعذاب ما بينحمل وليش؟؟ بس لإنن قالوا لا للوجود السوري بلبنان
!طيب!خرجت من لبنان انها قضيتنا إخلوا سبيل رفاقنايلي بعد

ن عندكن ما فيكن تقولوا ما في ما نحنا شاهدين انوا بعد في ..يلا يا سيادة الرئيس بشار امضي هل
المرسوم فرَح قلوب الامهات والزوجات والابناء الناطرة ببيوتها ليوم

انا من المعذبين في السجون السورية فيَّ orsolid.com babadehn@hotmail.com...الفرج
انا انتهكوا كل حقوق اوتجازوا حدودها كلها ومش بس انا طبعاً بعني عن اكثر من عشرة الاف

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الفرج...babadehn@hotmail.com orsolid.comeen; it was his new identity that
was forced upon him.

Until 1992, Ali and his cellmates had no news of any kind from the outside world, hence they were completely in the dark about anything that happened between the period when they were captured and 1992 (like the end of the Cold war and the fall of the Berlin wall). It was not enough they were prohibited from communicating with each other; they prevented any contact with the outside world. For almost six years, Ali was held incommunicado, he was not able to contact any of his relatives, until one day

he was able to communicate with his family through the wife of one his cellmates who contacted his wife and parents. His family was able to visit him a couple of times before he was moved to Sadnaya.

In every minute as a detainee, life in Tadmur is like walking in a minefield, one is exposed to violence, torture and the risk of death is omnipresent. Detainees are also routinely ill-treated during their daily exercise, a daily torture called “the breathing exercise”. It lasts between thirty minutes and an hour, and takes place once or twice a day. Prisoners are taken out into the prison courtyards and ordered to run around in bare feet while they are simultaneously whipped on their backs by prison guards supervising the exercise. Prisoners are sometimes forced to lie on their backs and raise their legs which are then beaten, sometimes until they bleed. At other times prisoners are forced to lie on their stomachs while the guards step on their heads, necks or backs or whip them. Detainees who refuse to carry out orders during the exercise period are subjected to other forms of torture. Punishments were numerous and varied in Tadmur and one did not need to commit a particular offence to be harshly penalized. One day, Ali was accused by one of his cellmates to have killed a bird because that bird was a Syrian bird. While what really happened was that the bird used to enter Ali’s cell where he used to caress it, until one day the bird died in Ali’s

cell. Without inquiring whether the cellmate that accused him was telling the truth or not, the guards started beating Ali and did not stop until he fainted, accusing him and calling him names, such as the “killer of Syrians”. The next day, during the breathing exercise, still under the effects of the beatings from the day before, Ali was forced by the sergeant to “eat” a dead bird while he was beaten. In the next month, he was put in similar conditions and was forced to “eat” a total of sixteen dead cockroaches including a live one. Ali got sick and lost a lot of weight as a consequence of these torture episodes and it took him many months to recover.

As he was released from Sadnaya in 2000, the shock of the last thirteen years and the time that passed were very hard experiences. Getting to know his children and fighting to rebuild the relationship was a tough experience for him because he always felt that something was missing. The thirteen years that passed made him miss his daughter’s Childhood. However, Ali strongly believes that he gained something from his sentence in Syria: He was able to reconcile himself from within, which allowed him to reconcile with God.

Appendix 2: Case of Dr. Joseph Hallit

After finishing his studies in Medicine, Dr. Hallit wanted to pursue a specialization in Medicine in a foreign country. In need of a visa and since

the embassies were closed in Lebanon, he left for Syria to prepare his papers from there. As he was sitting in a coffee shop, a man came to him asking for medical advice as it turns out it was a Syrian internal force agent. As he was forced in car, he got kidnapped and was taken in as a Syrian prison and remained a prisoner for eight years, five months and one day. From November 1992 to 2000 he was held illegally in Syria, and for two years and a half he was held incommunicado and prevented from communicating with his family. His family was able to reach for a brief period of his sentence. His crime was being a member of the Lebanese Forces. His crime was his ideology and belief.

Joseph was held in solitary confinement, a cell of 190cm high and 90cm by 98cm wide (measures that he took with a tissue) without a toilet or any light. They are kept in darkness, with very minimal lighting. In the solitary confinements, prisoners were banned from any contact with the outside world or with any one on the inside. The communication between cells was forbidden and punishable by torture. As a consequence, the prisoner would feel completely isolated, would rarely have any human contact, except maybe to be tortured. Any person held in such a condition is driven to lose his sanity. The use of the bathroom is restricted to three times a day with one minute for each time. The detainee is rushed into the

bathroom for one minute, where he is to make full use of this minute by multitasking. Bathes were limited to three times a year. Foods in small rations were provided three times a day (at 6 am, 2pm and 8 pm). The only contact with any human being was with his guards. After two years, he was used a prison doctor to consult other prisoners but without any contact, he still had to communicate with the guard as a mediator. Every condition of the solitary confinement is as such that any relief is unreachable. The prison appears to have been designed to inflict the maximum suffering, humiliation and fear on prisoners and to keep them under the strictest control by breaking their spirit. Prisoners are not only completely isolated from the outside world, they are also prevented from communicating with each other. Every aspect of life in the prison is a dehumanizing experience. They are unable to see the sky. He is also meant to forget his name, to only be a number: Joseph was number sixteen.

The first three weeks are the most difficult ones; torture takes place on a regular basis of three times a day without mercy. Prisoners are beaten with metallic sticks on every part of their body until they faint. Daily torture, constant humiliation and dehumanization while putting the detainee in inhumane conditions, they are denied any access to a fair trial, or any justice or redress. Dr. Hallit was “granted” a trial on the 24th December 1997 while

he was arrested on the 11th November 1992. His trial endured a few minutes and according to him the trial looked more like a “kiosk”. He was accused and sentenced in an unfair trial.

In his testimony, Dr. Hallit admitted that the hardest part was getting reintroduced into society: Realizing that a decade had passed, the world changed, technology improved, and even society changed. The delay between inside and outside, the rejection of society the shock of the changes made his freedom harder than expected.