

Mandates of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on the human rights of migrants

REFERENCE:
AL LBN 6/2021

26 April 2021

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and Special Rapporteur on the human rights of migrants, pursuant to Human Rights Council resolutions 43/20 and 43/6.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **physical and verbal assault of three Syrian nationals, including Mr. Eid El Khoder, on the basis of their nationality.**

According to the information received:

Mr. Eid El Khoder is a Syrian national, born on 9 July 1986. In 2012, he moved to Lebanon, the village of Deir El Ahmar in Baalbek–Hermel governorate, and subsequently obtained his residency permit in 2014. Mr. El Khoder is a field officer at the "Access Center for Human Rights" (ACHR), a non-governmental organization, where he is charged with monitoring and documenting human rights violations committed against Syrian refugees in Lebanon and is a focal point for victims.

In the framework of sanitary measures against the spread of the COVID-19 pandemic, the Lebanese government imposed a nationwide lockdown and curfew throughout the Lebanese territory. Furthermore, some municipalities imposed additional measures, including the requirement to obtain an authorisation to travel in-between municipalities or to leave the neighbourhood of residence. Those measures have disproportionately affected Syrian refugees.

On 9 April 2020, Mr. El Khoder, accompanied by a friend and a taxi driver, obtained travel authorisation from the municipality to travel to Zahle, in Beqaa Governorate, to collect food aid allowance for their families using their United Nations' food assistance cards. The three men are Syrian nationals and whereas Mr. El Khoder and the taxi driver held valid residency permits, his friend did not.

After food collection, while walking back to the car parking in Manara square, the three men were stopped by military officers, from the joint Military-State Security checkpoint located on the other side of the square. The officers saw the three men crossing the street, followed them in a military vehicle and forced them into it. They were taken to the checkpoint. Upon arrival, the commander inquired whether they were Lebanese or Syrian and Mr. El Khoder responded that they were Syrian, that he had a valid residency permit and the required travel permission from the municipality. He also explained that he worked for a non-governmental organization collaborating with the United Nations High Commissioner for Refugees (UNHCR). The commander

began to curse and insult Mr. El Khoder, the UNHCR and Syria, and ordered his subordinates to “do what needs to be done and then release them”. Subsequently, the officers forced the three men into the military vehicle and drove them to an insulated place a few meters away from the checkpoint. In this place, there were around ten soldiers, some of them allegedly beating other Syrians and the others watching. The soldiers started beating the three men on their heads, using their hands, while insulting and humiliating them and their country of origin. They only stopped when they noticed that Mr. El Khoder’s head was bleeding. They took the three men to the main street and left them there.

On 10 April 2020, a forensic doctor examined Mr. El Khoder and reported that he received several punches on the head, which caused a concussion, swelling of the forehead, and a cut of 1.5 centimetres, as well as bleeding in the right eye. The doctor further reported that Mr. El Khoder suffered from anxiety and fear due to the beating incident.

Mr. El Khoder filed a complaint at the Military Intelligence Office in Zahle and requested a copy of the complaint, but they did not provide him with one. The Military Intelligence Office contacted him on 1 May 2020 to request all details relevant to his case and told him they will get back to him but have not contacted him since.

While we do not wish to prejudge the accuracy of these allegations, we are deeply concerned about the physical and verbal assault against these three persons who have sought refuge in Lebanon by Lebanese military personnel, allegedly because of their nationality. These allegations are not isolated incidents but appear to be emblematic of a pattern of ill-treatment of Syrian national by some units of the Lebanese army. We are further concerned at the reported lack of independent and impartial investigation into the above-mentioned allegations, which contributes to perpetuate these mistreatments and to deny victims their right to remedy. If confirmed, these allegations would contravene the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), ratified by Lebanon in 2000, most notably its articles 2, 12, 14 and 16; and the International Convention and Civil and Political Rights (ICCPR) also ratified by Lebanon in 1972 articles 7, 9 and 10.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide detailed information on the factual and legal grounds of the reported arrest and temporary detention of Mr. El Khoder and his two companions by the military at the Manara square checkpoint. Please clarify precisely how this is compatible with Lebanon’s international human rights obligations under the Conventions it has ratified, including ICCPR and CAT.

3. Please provide detailed information and, where available, the results, of any investigation carried out in relation to the allegations of degrading treatment as well as of physical assault causing bodily injury. If no investigation has been undertaken, or if they have been inconclusive, please explain why.
4. Please indicate any measures taken by your Excellency's Government to prevent discrimination against Syrian nationals in law and in practice, as well as to guarantee remedy for victims of such acts.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please accept, Excellency, the assurances of our highest consideration.

Nils Melzer
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or
punishment

Felipe González Morales
Special Rapporteur on the human rights of migrants

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

In this connection, we would like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment as codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Lebanon ratified on 5 October 2000. we would also like to emphasise that "[A]ll methods of torture are subject to the same prohibition and give rise to the same legal obligations, regardless of whether the inflicted pain or suffering is of a "physical" or "mental" character, or a combination thereof" (A/HRC/43/49).

We would like to draw the attention of your Excellency's Government to paragraph 8a of Human Rights Council Resolution 16/23, which reminds States that "Intimidation and coercion, as described in article 1 of the Convention against Torture, including serious and credible threats, as well as death threats, to the physical integrity of the victim or of a third person can amount to cruel, inhuman or degrading treatment or to torture."

We would also like to remind your Excellency's Government its obligation under article 2 of the International Convention on the Elimination of all forms of Racial Discrimination, acceded by Lebanon on 12 November 1971, to condemn racial discrimination, to engage in no act or practice of racial discrimination against persons and group of persons and to ensure that all public authorities act in conformity with this obligation. In addition, article 5 of the Convention stipulates the obligation of States parties to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, including the right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual, group of institution. The Committee on the Elimination of Racial Discrimination in paragraph 21 of its General Recommendation No. 30 on discrimination against non-citizens, stated that States parties should "combat ill-treatment of and discrimination against non-citizens by police and other law enforcement agencies and civil servants by strictly applying relevant legislation and regulations providing for sanctions and by ensuring that all officials dealing with non-citizens receive special training, including in human".

We would like to draw the attention of your Excellency's Government to paragraph 14 of General Comment No. 20 of the Human Rights Committee, which provides that, "Complaints must be investigated promptly and impartially by competent authorities so as to make the remedy effective".

In this regard, we would also like to remind your Excellency's Government of paragraph 7b of Human Rights Council Resolution 16/23, which urges States "(t)o take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment investigated promptly, effectively and impartially by an independent, competent domestic authority, as well as whenever there is reasonable ground to believe that such an act has been committed; to hold persons who encourage, order, tolerate or perpetrate such acts responsible, to have them brought to justice and punished in a manner commensurate with the gravity of the offence, including the officials in charge of the place of detention where the prohibited act is found to have been committed; and to take note,

in this respect, of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the updated set of principles for the protection of human rights through action to combat impunity as a useful tool in efforts to prevent and combat torture.”

Finally, we would like to refer your Excellency’s Government to article 2 paragraph 3 of the International Covenant on Civil and Political Rights (ICCPR) providing that “3. Each State Party to the present Covenant undertakes:(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity; (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy; (c) To ensure that the competent authorities shall enforce such remedies when granted.” Furthermore, International human rights law imposes an absolute prohibition on discrimination. Non-discrimination is recognized as a general principle of international law, forms part of customary international human rights law. In this connection, State officials or institutions should exercise due diligence in investigating allegations of discrimination, and ensure that those responsible are held accountable, as well as provide effective remedy mechanisms for victims of discrimination.

We would also like to remind your Excellency’s Government that the enjoyment of the rights guaranteed in the International Covenant on Civil and Political Rights (ICCPR), ratified by Lebanon on 3 November 1974, are not limited to citizens of States parties but “must also be available to all individuals, regardless of their nationality or statelessness, such as asylum seekers, refugees, migrant workers and other persons, who may find themselves in the territory or subject to the jurisdiction of the State Party” (ICCPR/C/21/Rev.1/Add. 13 (2004), Para. 10). Thus, article 6, paragraph 1, of the ICCPR imposes an obligation for states to “assure to everyone within their jurisdiction effective protection and remedies...against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.”

We would also like to refer Your Excellency’s Government to the Human Rights Council Resolution 15/16 and General Assembly Resolution 68/179, which call upon States “to respect the human rights and the inherent dignity of migrants” and to “strongly condemn the manifestations and acts of racism, racial discrimination, xenophobia and related intolerance against migrants and the stereotypes often applied to them including on the basis of religion or belief, and urges States to apply and, where needed, reinforce the existing laws when hate crimes, xenophobic or intolerant acts, manifestations or expressions against migrants occur in order to eradicate impunity for those who commit those acts.” Additionally, Resolution 9/5 of the Human Rights Council, which addresses the issue of the human rights of migrants, ‘reaffirms the duty of States to effectively promote and protect the human rights and fundamental freedoms of all migrants, (...) regardless of their immigration status, in conformity with the Universal Declaration of Human Rights and the international instruments to which they are party.

We would also like to draw the attention of your Excellency's Government to the provisions set forth in the Global Compact for Safe, Orderly and Regular Migration (A/CONF.231/3) that your Excellency adopted on December 10, 2018,

which establishes in its Goal 17 the commitment of States to eliminate all forms of discrimination and to promote an evidence-based public discourse to shape perceptions of migration. In this regard, objective 17(d) establishes the commitment of the States to “establish mechanisms to prevent, detect and respond to racial, ethnic and religious profiling of migrants by public authorities, as well as systematic instances of intolerance, xenophobia, racism and all other multiple and intersecting forms of discrimination”. Objective 17(e) also establishes the commitment of the States to “provide migrants, especially migrant women, with access to national and regional complaint and redress mechanisms with a view to promoting accountability and addressing governmental actions related to discriminatory acts and manifestations carried out against migrants and their families”.

Furthermore we recall your Excellency’s Government the paragraph 30 of the Durban Programme of Action which “urges States to develop and implement policies and action plans and to [...] implement preventive measures in order to foster greater harmony and tolerance between migrants and host societies, with the aim of eliminating manifestations of racism, racial discrimination, xenophobia and related intolerance, including acts of violence, perpetrated [...] by individuals or groups [...]; (c) implement specific measures involving the host community and migrants in order to encourage respect for cultural diversity, to promote the fair treatment of migrants and to develop programmes, where appropriate, that facilitate their integration into social, cultural, political and economic life”.