

PRESENTATION

This country review is part of a larger study on **Freedom of assembly in the Euro-Mediterranean region** in the present time, presented in two parts: **I- Legislative review**, and **II- Practice of freedom of assembly**. Part I of the regional study was published in November 2013, and Part II will be published in 2014.

The full Regional study on Freedom of Assembly in the Euro-Mediterranean Region is available [here](#). It presents international standards protecting this fundamental right, and proceeds to analyzing the legal frameworks and their compliance to international human rights standards in 13 countries of the Mediterranean and the European Union: [the EU as region](#), [Spain](#), [the United Kingdom](#), [Algeria](#), [Egypt](#), [Israel](#), [Jordan](#), [Lebanon](#), [Libya](#), [Morocco](#), [Palestine](#), [Syria](#), [Tunisia](#) and [Turkey](#).

In order to develop the assessment of national legislations in comparison to international standards and the practical implications of legal provisions concerning freedom of assembly, objective indicators were used as a reference throughout this study, together with a gender-sensitive approach to detect whether women enjoy freedom of assembly to the same extent as men, or if they are more specifically affected by restrictions.

This study is based on a process of consultation and participation involving members of the Euro-Mediterranean Human Rights Network (EMHRN), which includes 80 organizations and institutions of human rights defense based in 30 countries as well as individual members. It thus reflects the efforts of a researcher recruited in the country, assisted by members of the EMHRN Working Group on Freedom of Association, Assembly and Movement, and the active involvement of other civil society organizations and experts.

Accordingly, the objective of this study is to provide Human Rights defenders and civil society organizations, international organizations and state institutions, with an analysis that allows them to assess national policies in their country and compare them to those of other countries and to international conventions, in order to advocate for relevant reforms and help improve the situation of freedom of assembly in the countries of the Euro-Mediterranean area.

Introduction

Lebanon is a parliamentary democratic Republic based on respect for public liberties, especially the freedom of opinion and belief, and respect for social justice and equality of rights and duties among all citizens without discrimination.¹ The preamble of the Constitution incorporates the Universal Declaration of Human Rights (UDHR) into its provisions. These international human rights norms and standards have constitutional status² and a higher standing than the national law.³

Lebanon participated in drafting the UDHR in 1948 and has acceded to a number of international treaties and conventions, among which its ratification on the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1997, with reservations to certain paragraphs of articles 9, 16 and 29.⁴ Nevertheless, due to insufficient integration of procedural safeguards in laws and practices, gaps remain in the fulfilment of Lebanon's obligations under international human rights law.

The right to Freedom of assembly is a key right in democracies and a prerequisite for the exercise of other human rights. Lebanon, which is a democratic republic, with a pluralistic environment and multi confessional society "(...) *has often been a fertile arena for internal strife and external interventions; it has paid a high price to maintain this colourful mosaic (...)*",⁵ such as the Lebanese Civil War (1975-1991), the confessional conflicts and the political crisis. In these instable contexts, freedom of assembly has a great importance in advocating and effecting real changes in Lebanon. The protection of this right plays a major role in facilitating continuous dialogue within different stakeholders⁶ and creating an open and tolerant society, in which different groups live together.

1. General Legal Framework

International and regional instruments

Lebanon's commitment to the Charter of the United Nations and the Universal Declaration on Human Rights is expressly stipulated in the preamble to the Constitution. In addition, the Constitutional Council considers that the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) complement the UDHR.

1 "c"-(Fundamental Provisions Preamble) - The Lebanese Constitution.

2 The Constitutional Council resolved to consider the preamble to the Lebanese Constitution as an integral part of it.

3 Article 2 - Code of Civil Procedures - Lebanon.

4 *National Strategy for Women in Lebanon 2011-2021*, National Commission for Lebanese Women.

5 Arda ARSENIAN EKMEKJI, *Confessionalism and electoral reform in Lebanon*, July 2012, The Aspen Institute

6 Government, Parliament, Political Parties, Civil Society, etc.

Lebanon adhered to relevant international conventions:

- ▶ the International Covenant on Civil and Political Rights (ICCPR)
- ▶ the International Covenant on Economic, Social and Cultural Rights (ICESCR)
- ▶ the International Convention on the Elimination of All Forms of Racial Discrimination
- ▶ the International Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

Domestic laws

The right to Freedom of Assembly is a constitutional right in Lebanon, guaranteed in article 13, which stipulates that: “*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*”. This constitutional text is in line with international standards upholding the importance of the freedom of peaceful assembly which represents the genuine side of democracy.

In Lebanon, the right to Freedom of Assembly is still governed by the Ottoman law issued on 1911 (20 Jumada 1, 1327), known as the Public Assemblies Law) and amended by the law issued on June 4, 1931 and law decree number 41 issued on September 28, 1932.

2. Procedures

Advance notification

Public assemblies are not subject to previous authorization by the Lebanese authorities. Article 1 of the Ottoman law stipulates that no permit (authorization) is required and that Public assemblies are allowed only if participants are unarmed.

However, the exercise of this right is subject to a **prior notification procedure**. According to article 2 of the above mentioned law, a “statement paper” shall be prepared by organizers before the assembly, specifying the place, day and exact time of the meeting. The paper shall be signed by **at least two persons** provided they are both residents of the meeting location area and enjoying their political and civil rights. They should mention their names, position and status.

The “statement paper” shall mention the cause and the intended purpose of the meeting⁷ and shall be submitted to the Ministry of Interior for assemblies to be held in Beirut and to the administrative authority for assemblies to be held outside of Beirut (the *Muhafiz* and the

⁷ Article 5 of the Ottoman law.

Qaem-maquam). A “notification” is received once the paper is submitted. In case the notification was not delivered, the writers of the statement paper shall draw up minutes explaining the reasons. Two of the participants enjoying their political and civil rights must sign the minutes. It is necessary to mention, in the notification or in the minutes, the exact date and time the statement was submitted.⁸

The regulation of the Ministry of Interior, issued under Decree number 4082 on 14/10/2000, mandates the Department of Political Affairs, Parties and Organizations to settle the requests related to assemblies and demonstrations notifications.

Article 4 of the Ottoman law states that the notification should be submitted **at least 48 hours** prior to the date of the assembly.

Spontaneous and urgent assemblies

There is a difference between public assemblies and spontaneous or urgent assemblies, despite the bond that may exist between participants. The Ottoman law doesn't include any provisions for exceptions in the case of spontaneous assemblies;⁹ however the Lebanese authorities protect and facilitate, in practice, spontaneous assemblies as long as they remain peaceful.

3. Restrictions

In accordance with article 21 of the ICCPR: “(...) *no restriction may be placed on the exercise of the rights to freedom of peaceful assembly and of association other than those that are prescribed by law and that are deemed necessary in a democratic society to safeguard national security and public order, protect public health, morals or the rights and freedoms of others*”.¹⁰ In the same perspective, although the general principle is the freedom of assembly in Lebanon, yet this right is not absolute as the Lebanese Legislator has put limitations and restrictions in order to balance it against the need to protect other rights and needs.

As stipulated in article 3 of the Ottoman law, the Lebanese government may prevent, pursuant to a Council of Ministers decision, the holding of a public assembly that would disturb public security or public order or public morality and that would go against the regular and normal course of public interests.¹¹ Every meeting that is held despite the prohibition referred to shall be

⁸ Article 3 of the Ottoman law.

⁹ The UN Special Rapporteur on the rights to freedom of peaceful assembly and of association has stated that spontaneous assemblies should be exempted from prior constraints (*Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association*, Maina Kiai, Human Rights Council, 21 May 2012, A/HRC/20/27, para. 29).

¹⁰ Resolution 21/16 - adopted by the Human Rights Council on 11 October 2012, *The rights to freedom of peaceful assembly and of association*, Human Rights Council, General assembly, United Nations.

¹¹ Added to Article 3 as per amendment - law issued on June 4, 1931.

dissolved and the organizers and owners of the location shall be subject to prison sentence from six months to three years and to the payment of a fine or to one of these two penalties.¹²

The Lebanese government **forbids any meeting organized without notification** or minutes submission.¹³ The organizer of such event will be subject to imprisonment ranging from one week to one month or to the payment of a monetary sanction.¹⁴ Article 6 and 7 of the Ottoman law put general restrictions related to the place and the time of the assembly. The public assembly shall not be organized in open spaces located within a distance of three kilometers from the presidential palace or the parliament when it is convened.¹⁵ In addition, it cannot be held in public roads intended for traffic and crossing. The public assemblies, organized in open places, can last from sunrise to sunset.¹⁶

International bodies monitoring freedom of assembly have narrowly construed limitations foreseen in article 21 ICCPR; in this context, blanket restrictions imposed by the Ottoman law fall short of international standards, particularly the ban on assemblies in roads with vehicular and pedestrian traffic, since the temporary disruption to regular traffic flow caused by an assembly should be tolerated by the authorities.¹⁷

Legal remedies

It is possible to file a complaint against an administrative decision to an administrative tribunal. Its decision may be appealed to the State Consultative Council (*Shura Council*).¹⁸ This administrative appeal procedure has proved to be a satisfying and effective remedy.

4. Protection

State's duty to protect peaceful assembly

The Lebanese authorities have a negative obligation, the obligation to respect the right to freedom of assembly and not to unjustifiably interfere in the enjoyment of this right. In addition, they have a positive obligation to ensure that the right to hold and participate

¹² Added to Article 3 as per amendment - law decree number 41 issued on September 28, 1932.

¹³ Article 3 of the Ottoman law.

¹⁴ Article 3 of the Ottoman law.

¹⁵ Article 6 of the Ottoman law.

¹⁶ Article 7 of the Ottoman law.

¹⁷ See Judgment of the European Court of Human Rights, *Oya Ataman v Turkey*, 5 December 2006, paras. 41-42.

¹⁸ <http://www.loc.gov/law/help/lebanon.php>.

in peaceful assembly is enjoyed in practice by putting in place adequate procedures and mechanisms to protect and facilitate it.

Law enforcement officials duties to maintain order and security, protect public freedoms¹⁹

Law No. 17 of 6/9/1990 (Organization of the Internal Security Forces - ISF) and The Internal Security Code of Conduct (in particular article 7 - Use of Force and Firearms) aiming at guiding law enforcement officials in general, can be adapted to their role of policing peaceful protests. In this regard, they will preserve human dignity and uphold human rights.²⁰ They will protect freedoms within the bounds of the Law²¹ and will not practice any form of discrimination based on race, ethnicity, confession, region, national origin, gender, age, social status or any other basis.²²

In their duties, Lebanese Law Enforcement officials have the positive obligation to actively protect peaceful assemblies in general, and to protect it in particular from intruders and troublemakers aiming at disturbing or dispersing these assemblies, such as infiltrators, counter-demonstrators, provocateurs. As per the Special Rapporteur, these individual or groups may include in general *"(...) those belonging to the State apparatus or working on its behalf"*.²³ This protection should ensure that interferences do not keep any person from enjoying the right to assembly *"(...) be it through threats, violence, or any other means of physical and moral coercion, or through deprivation of freedom in cases other than those set forth by the law"*.²⁴

Lebanese law enforcement officials will not abuse power²⁵ and will not use the power entrusted to them *"(...) but to maintain order and to enforce the law"*.²⁶ The use of force must be commensurate with the circumstances²⁷ and officials will restrain from using it unless it is *"necessary, proportionate and after exhausting all possible, non-violent means, within the minimum extent needed to accomplish the mission"*.²⁸

19 According to the cabinet's assignment on 15/1/1991, the Lebanese army started executing the missions of peacekeeping in all the Lebanese areas and continues to do so.

20 Abiding by: Lebanese Constitution (article 8), UDHR (article 9), Lebanese Penal Code (article 329 & 367), and United Nations Code of Conduct for Law Enforcement Officials dated 17/12/1979 (article 2).

21 Article 1 of Law N 17 of 6/9/1990 (Organization of the Internal Security Forces).

22 *Code of Conduct*, Internal security forces, Ministry of Interior and Municipalities, Lebanese Republic.

23 *Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association*, Maina Kiai, Human Rights Council, 21 May 2012, A/HRC/20/27.

24 *Code of Conduct (Explanatory Notes)*, Internal security forces, Ministry of Interior and Municipalities, Lebanese Republic.

25 *Code of Conduct*, Internal security forces, Ministry of Interior and Municipalities, Lebanese Republic.

26 Article 45 of Law N 17 of 6/9/1990 (Organization of the Internal Security Forces).

27 Article 225 of Law N 17 of 6/9/1990 (Organization of the Internal Security Forces).

28 *Code of Conduct*, Internal security forces, Ministry of Interior and Municipalities, Lebanese Republic.

5. Sanctions

Responsibility of the assembly's organizers

As per article 8 of the Ottoman law, a commission (administrative commission) composed of at least three persons (in general the organizers) runs the assembly, ensuring the peaceful nature of the assembly. This commission has the obligation to make adequate and reasonable efforts to comply with the assembly's legal requirements. It is responsible of maintaining order, preventing laws violations, assuring that participants are not deviating from the topic mentioned in the "Statement Paper" and preventing any speech that might be prejudicial to the State order and public morals or any other words that could incite crime commission. If members of the committee are not nominated by the statement paper signatories, the assembly shall elect them. This administrative commission is responsible of every action that goes against the dispositions of articles 7 and 8. Before this commission is formed, this responsibility lies on the shoulders of the "statement paper" signatories.²⁹ It is worth noting that under such provision organizers bear far-reaching responsibility for criminal acts committed during the assembly, whereas, bearing in mind the State's ultimate obligation to protect peaceful assemblies, promoters or organizers should not be held accountable for others' actions or omissions when they were not involved.³⁰

As per article 10 of the Ottoman lam, whoever contravenes the provisions of this law will be punished by a monetary penalty or with imprisonment for 24 hours to one week. In addition to prosecution against those who commit a crime in the course of the meeting (as per articles 345 to 349 of the Lebanese Penal Code).

Riot demonstrations and assemblies

The Lebanese Penal Code, in its 5th chapter, criminalizes "Riot demonstrations and assemblies". As per Article 345,³¹ whomever cries out loudly what could incite to riots or disturb public security or do what could potentially lead to unrest, while attending an assembly not having the character of a private meeting whether by its purpose or number of participants or location and whether it was held in a public place or an open venue, can be sentenced to a period of one month to a year in prison and to pay a fine ranging from 20,000 LBP to 200,000 LBP.

Article 346 defines riot assemblies as being any rally or parade organized on public roads or venues, open to the public and composed of at least three persons, one of them at least having a weapon, with the intent to commit a felony or a misdemeanor or of **at least seven persons intending to protest against a decision or measure taken by the**

29 Article 8 of the Ottoman law.

30 *Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association*, Maina Kiai, Human Rights Council, 21 May 2012, A/HRC/20/27, paras. 31 and 33.

31 Article 345 amended by virtue of law number 239, dated 27/5/1993.

public authority to put pressure on it, or if of around twenty persons suspected of disturbing public peace. These provisions are vague and lack a precise definition. Moreover, any provision criminalizing assemblies aimed at protesting against public authorities' decisions encroaches upon the democratic essence of the freedom to peacefully assemble as enshrined in the ICCPR and the UDHR.³²

If people are gathered as previously described, they can be asked to disperse by one of the representatives of the administrative authority or an officer of the judicial police. Those taking action before the authority's warning or those who obey immediately without using their weapons or committing any other misdemeanor are exempted from the abovementioned sentence.³³

Nevertheless, in case demonstrators do not disperse except by force, they will be condemned to imprisonment from two months to two years. Furthermore, the demonstrator using a firearm will be sentenced to a period ranging from one to three years in prison or to a more severe penalty that he may be entitled to.³⁴

Military Courts to judge civilians

According to the **Lebanese Code of Military Justice of 1968**, Lebanon's Military Court is a special court competent to statute on offences against national security and crimes committed by military personnel. This court is headed by a military officer assisted by four other judges, three of which are military officers, all appointed by the Minister of Defence. The Military Court has jurisdiction over any conflict between civilian and military personnel.³⁵ Before 2005 this procedure was widely applied to protesters, raising concern from international Human rights organizations, as in principle, military tribunals should not try civilians.³⁶

The United Nations Human Rights Committee expressed in its 1997 review of Lebanon's report "*concern about the broad scope of the jurisdiction of military courts in Lebanon, especially its extension beyond disciplinary matters and its application to civilians. It is also concerned about the procedures followed by these military courts, as well as the lack of supervision of the military courts' procedures and verdicts by the ordinary courts*".³⁷ Although the law has become much

32 See, e.g., OSCE/ODIHR *Guidelines on freedom of peaceful assembly*, 2010, Warsaw, 2nd edition, section B, Explanatory Notes, para. 94 "[C]riticism of government or state officials should never, of itself, constitute a sufficient ground for imposing restrictions on freedom of assembly".

33 Article 347 - Lebanese Penal Code.

34 Article 348 - Lebanese Penal Code.

35 *Lebanon: Human Rights Organizations urge the Lebanese authorities to stop referring civilians to the Military Court*, Alkarama, ALEF & CLDH, 17 August 2012.

36 UN Working Group on Arbitrary Detention (Opinion No. 27/2008).

37 *Lebanon: Human Rights Organizations urge the Lebanese authorities to stop referring civilians to the Military Court*, Alkarama, ALEF & CLDH, 17 August 2012.

more protective to protesters' rights, the possibility of military courts trying civilians remains open and is still a concern.

6. Gender Equality and Freedom of Assembly

The Lebanese constitution recognizes equality between men and women before the law. Article 7 stipulates that: "*All Lebanese shall be equal before the Law. They shall equally enjoy civil and political rights and shall equally be bound by public obligations and duties without any distinction*". However, practice shows that gender-based discrimination persists in some laws, which have not yet been challenged as unconstitutional.³⁸

The right to freedom of peaceful assembly is to be enjoyed equally by everyone in Lebanon. In regulating this right, the Lebanese authorities must treat all individuals and groups equally. Women have equal rights to peaceful assembly and can freely advocate for any cause. Women's organizations in Lebanon use different kinds of actions to shed light on their demands and rights such as sit-ins and demonstrations. The aim of such events is to claim a right or make an issue known in order to mobilize public opinion.

³⁸ *Women's Rights in the Middle East and North Africa 2010*, Freedom House, Lebanon, 3 March 2010, available at: <http://www.unhcr.org/refworld/docid/4b99012177.html> [accessed 22 February 2013].

Recommendations

1. Authorities should reform the Public Assemblies Law in order to lift restrictions based on content, blanket restrictions on time and place and the extra liability for the organizing commission.
2. Strengthen the Law Enforcement Officials' capacities in human rights in general and in relation to protecting freedom of assembly in particular.
3. Implement the recommendation accepted during the Universal Periodic Review-UPR 2010, by "*strengthening the institutional framework in the human rights area, including, through the establishment of a National Human Rights Institution in accordance with the Paris Principles*".³⁹
4. Implement the recommendations accepted during the Universal Periodic Review of 2010 by establishing processes and institutions to protect women's rights, ensure equitable representation of their interests and concerns,⁴⁰ continue efforts for their advancement and participation in public life,⁴¹ as well as fighting violence against women.⁴²

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³⁹ *Report of the Working Group on the Universal Periodic Review, Lebanon*, Human Rights Council, General Assembly, United Nations, 12 January 2011, Par. 80-9, A/HRC/16/18. Recommendation also included in the National Human Rights Action Plan for Lebanon 2013-2019, Lebanese Parliament, Lebanese Republic.

⁴⁰ *Report of the Working Group on the Universal Periodic Review, Lebanon*, Human Rights Council, General Assembly, United Nations, 12 January 2011, Par. 81-16, A/HRC/16/18.

⁴¹ National Human Rights Action Plan for Lebanon 2013-2019, Lebanese Parliament, Lebanese Republic.

⁴² *Report of the Working Group on the Universal Periodic Review, Lebanon*, Human Rights Council, General Assembly, United Nations, 12 January 2011, Par. 81-14, A/HRC/16/18.