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## The State of Emergency in Lebanon

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September 2020

Initial assessment of the declared State of Emergency in August 2020 in terms of its legal shortcomings and its potential threat to both human rights and human security in Lebanon. All views are those of the authors. Reproduction and/or dissemination of this report requires the express approval of Siren Associates.

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# Foreword: Regarding the extension of the State of Emergency until 31 December 2020

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On 14 September 2020 the Lebanese Government published a document, issued by the Director General of the Council of Ministers, to extend the powers granted to the LAF under the State of Emergency until 31 December 2020. The report that follows is a result of research carried out in August and early September, and therefore does not incorporate an in-depth analysis of this most recent development. However, a preliminary analysis indicates that this decision does not appear to have legal standing as per the terms of Legislative Decree No. 52/1967, 'Declaration of a State of Emergency or Military Zone'.

The document, which does not bear any official title such as decree or decision, is convoluted. It references both the original State of Emergency declaration as well as its earlier extension. However, in apparent acknowledgement of its limitations, this decision does not make any reference to an official extension of the State of Emergency. Instead, it simply states that, given the exceptional circumstances in Lebanon at the moment, the powers granted to the LAF by the State of Emergency are to be extended. It enumerates a number of these, including: to coordinate with donors and local administrations and authorities for reconstruction; to follow up on humanitarian and medical aid distribution; to continue to provide security oversight at the port until the investigation concludes; to continue and complete the mapping of damages in coordination with relevant public administrations; to divide regions between donors and civil organizations and supervise their work; and to execute security missions within the explosion site in coordination with the rest of security agencies and task them accordingly. It concludes by stating that this decision is to be presented at a later point to the council of ministers (which remains in a caretaker capacity) to be agreed upon.

Ultimately, this decision, and the powers it grants to the LAF, is unlawful. It confirms, rather than assuages, the concerns raised herein and further heightens the potential human rights risks that this report, as well as numerous other commentators, have voiced. The lack of clarity that it provides is striking, and is unlikely to improve the humanitarian situation on the ground, the access to resources by affected communities, nor the human security of those most vulnerable in the aftermath of the Beirut port explosion. Finally, it adds greater urgency to the recommendations of this report. The need for effective, credible, and transparent accountability of security agencies, and ultimately the entire public sector in Lebanon, remains paramount.

*Siren Team*

Beirut, 18 September 2020

# Key Findings and Recommendations

## Overview

**Summary:** The analysis in this paper demonstrates that the process followed by the Lebanese government to declare a State of Emergency on 5 August was incompatible with the requirements of both national and international law, and that some contents of the State of Emergency declaration violated Lebanon’s obligations under international law. Its imposition and extension raise serious concerns around potential human rights violations.

Moreover, the imposition of a State of Emergency in Lebanon has not been effective as a method of ensuring law, order and security, ostensibly the purpose it was introduced for. The transfer of responsibility for security to the Lebanese Armed Forces (LAF) has had the overall effect of making the application of the law unpredictable and inconsistent, has not been accompanied with clear command and coordination structures, and has likely contributed to escalated tensions with communities, further undermining human security throughout the country.

**Purpose:** To assess the State of Emergency in terms of its legal shortcomings and its potential threat to both human rights and human security in Lebanon.

### Key Legal References:

#### International Norms and Laws

- International Covenant on Civil and Political Rights (ICCPR)
- Paris Minimum Standards of Human Rights Norms in a State of Emergency

#### National Legislation

- Legislative Decree No. 52/1967, Declaration of a State of Emergency or Military Zone

### Timeline of Events:

- Aug 4 - Beirut Explosion
- Aug 5 - State of Emergency Declared
- Aug 10 - Government Resignation
- Aug 13 - Parliament approves State of Emergency Caretaker
- Aug 17 - Government extends State of Emergency to Sep. 18

## Legal Analysis

### International & National Laws: Key Takeaways

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|---|--|
| <i>What defines a State of Emergency?</i>         | <ul style="list-style-type: none"> <li>• States of emergency are declared when states intend to temporarily deviate from or suspend certain laws, to allow them to restore order and control in an emergency setting. It permits states to derogate from certain rights.</li> <li>• During a state of emergency in Lebanon, the Army is placed in control of all security forces.</li> </ul> |
| <i>When can a State of Emergency be declared?</i> | <ul style="list-style-type: none"> <li>• A State of Emergency can only be proclaimed during an emergency that threatens the life of the nation. The scope, time period and geographical coverage of the declaration must be necessary and proportionate to the threat.</li> <li>• Lebanese Law allows for a State of Emergency during “incidents characterized as a disaster”.</li> </ul>    |

- How can a State of Emergency be declared?*
- The ICCPR requires that a State of Emergency be declared to the UN Secretary General. Notification must include the rights to be derogated from.
  - National law provides the power to declare a State of Emergency to the Council of Ministers, with parliament carrying an obligation to 'look into' the state of emergency.
- How can rights be derogated from during a state of emergency?*
- Derogations must be necessary, proportionate, non-discriminatory, time-bound, and formally declared.
- Policing in a State of Emergency*
- A State of Emergency does not under international law give a government unlimited power to use force, conduct arrests or place limitations on the rights of citizens. It gives states a limited power to derogate from specific, identified rights, only when officially declared, and when necessary and proportionate to the objective of restoring law, order and security. Certain rights, such as the right not to be arbitrarily arrested or detained, the right to a fair trial, and against torture and inhumane treatment, can never be derogated from.
- Military powers in a State of Emergency*
- International best practice states that the military should not regularly be involved in policing functions, even during a state of emergency; in cases where this is deemed necessary, they should remain under civilian authority. Military courts should generally not be permitted to try civilians or military personnel accused of violating the rights of civilians.
  - In Lebanon, a state of emergency gives the LAF the authority to take responsibility for and control over the security of the country, with wide discretion given to derogate from a range of rights. It provides that any violations of the state of emergency laws by civilians will be tried in military courts. There are some limitations on their ability to confiscate property and carry out arrests and detention, set by legislation, and some limitations on their ability to use, force, set by the Code of Conduct for the LAF in Law Enforcement.

### Summary of Shortcomings, Violations, and Risks under International Law

**The extension of the State of Emergency violates the constitution.** The required 2/3 of Council of Ministers were not present to affirm its issuance; the extension was also issued by memo, in contravention of Article 2 of Legislative Decree No. 52.

**There is a lack of alignment between Lebanon's State of Emergency laws and International Law.** Legislative Decree No. 52 falls short of the international standards found in the ICCPR. It makes no explicit mention of the principles of legality, necessity, proportionality, and non-discrimination. Serious risks attach to the provision of expanded powers to the military without the required legal safeguards.

**Lebanon failed to notify the UN of the State of Emergency, in contravention of Article 4(3) of the ICCPR.** Such a contravention risks isolating citizens from the secondary lawyer of protection offered by this external oversight.

**There is a general lack of clarity around the conditions of the present State of Emergency and the rights derogated from.** By providing broad powers to the military, rather than specifics about the rights derogated from and the reasons why, there is a risk for unnecessary, disproportionate, and illegal violation of those rights.

**There is a threat to the right to Freedom of Expression, and particularly to the media, given the specific powers entrusted to the military under Decree no. 52.** Defamation has long been used by political elites as a means for silencing legitimate critics; these additional powers to repress expression and the media only raise the risk of such mechanisms being further abused.

**There is potential for other violations of the principles of necessity and proportionality in relation to basic human rights,** including rights to due process, freedom of movement, freedom of association, and the right to liberty.

**Military courts jurisdiction has been expanded to include any citizen violations of the Emergency decree, in violation of international law.** Military courts have a poor record in Lebanon in terms of basic rights protections, and their invocation poses a serious risk of instigating a chilling effect over civil society and government critics.

## Summary of Recommendations

### Lebanese Government

<i>To the Lebanese Council of Ministers</i>	<ul style="list-style-type: none"> <li>• Deposit a notification of the State of Emergency with the UN Secretary General.</li> <li>• Terminate the State of Emergency using the set legal process.</li> <li>• Failing a termination of the State of Emergency, adopt a clarification bringing it in line with international law.</li> <li>• Issue a Decree requiring future States of Emergency to conform with international law.</li> </ul>
<i>To the Lebanese Parliament</i>	<ul style="list-style-type: none"> <li>• Replace Legislative Decree No. 52 with one that aligns the requirements for States of Emergency with international law.</li> </ul>
<i>To the Security Agencies</i>	<ul style="list-style-type: none"> <li>• Update the Code of Conduct for the LAF in Law Enforcement to include limitations of legality, necessity, proportionality and non-discrimination for all powers given to the military.</li> <li>• The ISF and LAF to hold investigations into breaches of the Code of Conduct, and to release publicly information about the investigations.</li> <li>• For the LAF to publicly state that the powers of the military during the State of Emergency will be limited by the requirements of international law.</li> <li>• The ISF and the LAF to meet to compare, discuss and align their respective guidelines on the Use of Force during public order events.</li> <li>• Both the LAF and ISF to develop specific guidelines and training modules on policing during a State of Emergency.</li> </ul>
<i>To the Judiciary</i>	<ul style="list-style-type: none"> <li>• Conduct investigations into the disproportionate use of force, as well as other human rights violations, by security forces during public demonstrations.</li> <li>• Apply international law when adjudicating on cases relating to the State of Emergency, disproportionate use of force, and other violations by the Lebanese Security Forces.</li> </ul>

### International Community

<i>To Donors</i>	<ul style="list-style-type: none"> <li>• Support the amendments to the Code of Conduct for the LAF in Law Enforcement described above.</li> </ul>
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	<ul style="list-style-type: none"> <li>• Request that high level members of the Government and military make a public commitment to respecting human rights during the State of Emergency.</li> <li>• Further insist on the need for credible, transparent investigations into any instances of potential disproportionate use of force or breaches of human rights.</li> <li>• Continue advocating for all cases involving civilians and members of the military who have committed violations against civilians to be tried in civilian courts.</li> </ul>
<i>To the UN Human Rights Committee</i>	<ul style="list-style-type: none"> <li>• The Human Rights Committee should request Lebanon to submit an ad hoc report on the specific issue of how it will ensure human rights protections during its State of Emergency and General Mobilization.</li> </ul>
<i>To other UN Treaty Bodies</i>	<ul style="list-style-type: none"> <li>• The CEDAW Committee should include questions about the way the State of Emergency has affected women in the list of issues for Lebanon to consider before its next report.</li> <li>• The CERD Committee should include observations about the way the State of Emergency has affected racial minorities in its Concluding Remarks on Lebanon.</li> </ul>
<i>To UN Special Rapporteurs</i>	<ul style="list-style-type: none"> <li>• The Special Rapporteurs on the rights to freedom of peaceful assembly and of association; and promotion and protection of the right to freedom of opinion and expression should intervene, offering direct and strategic support to the Lebanese government to make sure these rights are protected during the State of Emergency.</li> </ul>

## Command Structure Analysis

### Overview: Key Takeaways

The command structure is complex and emergent, made more complex due to the mixing of security command and humanitarian coordination efforts

All security agencies are under the command of LAF. They continue to be governed by their own laws; however, the LAF can draw down on their resources for specific operations.

thus far, no structured and operational coordination mechanism has been identified between the LAF, ISF, and other security agencies in relation to command and control for managing internal security.

The continued presence of the Parliamentary Police continues to negatively affect the coherence and professionalism of the broader security response to public demonstrations.

### Summary Shortcomings and Threats in Relation to Current Structure

**There is a lack of coordination at both a strategic and operational level.** Poor coordination is having a real and detrimental impact the human security of the most vulnerable as access to basic goods and services remains fragmented and uneven.

**A lack of clear command and control in relation to the policing of public order events is of particular concern.** The continued presence of the Parliamentary Police continues to negatively affect the coherence and professionalism of the broader security response to public demonstrations.

**There is potential overreach of LAF beyond the security missions outlined in Decree No. 6792.** There are serious questions to be raised as to whether the LAF should be responsible for broader humanitarian and development relief and coordination duties and whether they have the required capabilities for conducting such activity efficiently, effectively, and transparently.

**There is a lack of clarity regarding continuity plans to maintain command and coordination structures beyond the State of Emergency.** The lack of continuity planning beyond the State of Emergency heightens the risk of continued poor coordination, both at a strategic and operational level.

### Summary of Recommendations

#### Lebanese Government

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|-----------------------------------|--|
| <i>To the Lebanese Parliament</i> | <ul style="list-style-type: none"> <li>• The Lebanese Parliament should either disband the Parliamentary Police, or should pass legislation that transfers their command to the ISF and brings them under their laws and Code of Conduct.</li> </ul>   |
| <i>To Security Agencies</i>       | <ul style="list-style-type: none"> <li>• At a strategic level, a joint coordination structure including the LAF, ISF, General Security, and Civil Defense, and drawing on their respective crisis management functions where relevant, should be established under the direct command of the head of the LAF in order to guide overall strategy throughout the State of Emergency. The FER should be linked to this to align operational and strategic decision-making.</li> <li>• LAF and ISF should immediately commence joint planning for public order events, in accordance with the ISF Public Order Manual of Guidance.</li> <li>• The ISF Public Order Manual of Guidance should be disseminated to other security agencies, and joint trainings and awareness raising workshops should be held to develop familiarity and, eventually, competency in the basic aspects of the public order manual, as well as to agree inter-agency coordination structures.</li> </ul> |

#### International Community

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|------------------|---|
| <i>To Donors</i> | <ul style="list-style-type: none"> <li>• Donors should continue to push for improved transparency in relation to the management and coordination of incoming aid and relief. Where possible, efforts should be made to emphasize civilian, rather than LAF, coordination of aid efforts.</li> <li>• Donors should demarche the Speaker of Parliament, express concerns regarding the Parliamentary Police, and insist that the Parliamentary Police are either disbanded or come under formal government control, in line with international standards related to state security agencies.</li> </ul> |
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# Introduction

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The explosion in Beirut took place on August 4<sup>th</sup>. On August 5<sup>th</sup>, Cabinet and the President announced a State of Emergency via Decree no. 6792. Since then, parliament has voted overwhelmingly in favour of the State of Emergency, and it has since been extended until September 18<sup>th</sup>.

The State of Emergency has come under considerable scrutiny by domestic and international observers. Legal Agenda, a leading legal rights research and advocacy organization, have asserted that the extension was unconstitutional and unjustified.<sup>1</sup> International media have noted the potential for overreach and the use of armed forces, under the auspices of the State of Emergency, to quell protests and dissent.

The State of Emergency also raises critical questions regarding Lebanon's commitments under international law. The International Covenant on Civil and Political Rights (ICCPR), to which Lebanon is a party, outlines specific and binding regulations with regards to the declaration and administration of States of Emergency. Additional non-binding standards, such as the Paris Minimum Standards of Human Rights Norms in a State of Emergency, should also be considered when judging the human rights compliance of the current situation.

Beyond legal shortcomings, the command and control structures the Lebanese Armed Forces (LAF) have adopted within the State of Emergency, when combined with the broader humanitarian response to the Beirut blast, requires scrutiny. Although the situation remains fluid, initial findings indicate a lack of coordination and poor fore-thought in terms of the long-term recovery planning.

The purpose of declaring a State of Emergency is to allow a government to ensure law, order and security for the duration of an emergency situation. Ultimately, the way the State of Emergency was declared in Lebanon has not ensured respect for the rule of law, because it itself breached national and international law. The limitations placed on the power of the military is unclear, and contained across multiple pieces of legislation and a Code of Conduct, the latter of which appears not to have been enforced. This has made the application of the law inconsistent and unpredictable. The lack of coordination that has characterized the response by the LAF combined with instances of use of force that has been unnecessary and disproportionate has led to more, rather than less, insecurity across the country.

The present paper identifies the current shortcomings, as well as potential threats, to both human rights and human security posed by the current situation in relation to the State of Emergency. The analysis is structured around two key elements: the legal (both international and national) framework, as well the command structure. Ultimately, recommendations are identified for both the international community and Government of Lebanon in order to improve compliance with international and national laws and mitigate the potential threats posed by the current situation.

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<sup>1</sup> As stated on a twitter post, August 18 2020. Available at [https://twitter.com/Legal\\_Agenda/status/1295644401771991040](https://twitter.com/Legal_Agenda/status/1295644401771991040).

# Section 1: Legal Analysis

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## 1.1 International & National Legal Framework

### 1.1.1 What defines a State of Emergency

#### *International Law*

States of Emergency are declared when states intend to temporarily deviate from or suspend certain laws, to allow them to restore order and control in an emergency setting. Under international law, a State of Emergency means that a state is permitted to “derogate from” certain human rights that are “derogable” under international human rights law. Derogating from certain rights is different to qualifying them. Qualified rights are rights that may be limited or restricted in certain circumstances. For example, the right to liberty is limited when a person is arrested. A right is derogated from when a government formally places a restriction on a specific right, or suspends it entirely, for the population at large during states of emergency. A table indicating derogable, non-derogable, absolute and qualified rights is included in Annex 1. A set of rules attach to both when and how a State of Emergency can be proclaimed and when and how certain rights can be derogated from.

#### *National Law*

Legislative Decree 52 provides that during a State of Emergency, responsibility for ensuring the security of the country is transferred to the Lebanese Armed Forces (LAF)'s High Military Authority, who in practice in Lebanon is the LAF Commander-in-Chief. All security forces are placed at the disposal of this authority, including the Internal Security Forces, General Security, Customs, and armed forces in ports, airport, forest guard, and armed guard units and brigades, including firefighters. Most of these security forces will continue to serve under their own codes, but under the overall authority and command of the High Military Authority. However, the HMA may choose to place members of these forces at the direct service of the military and assign duties to them such as security, guarding sensitive posts, rescues, and “war operations”. Personnel reassigned to the military in this way become subject to military laws and codes of conduct. The military is given special authority to take certain actions which would usually not be permitted under Lebanese law in order to restore law and order, described below.

### 1.1.2 When a State of Emergency may be declared

#### *International Law*

Under international law, a State of Emergency can only be proclaimed when the situation amounts to a public emergency which threatens the life of the nation.<sup>2</sup> The Paris Minimum Standards of Human Rights Norms in a State of Emergency defines a public emergency as “an exceptional situation of crisis or public danger, actual or imminent, which affects the whole

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<sup>2</sup> Article 4, ICCPR.

population or the whole population of the area to which the declaration applies, and constitutes a threat to the organized life of the community of which the state is composed.”<sup>3</sup> In determining what constitutes a “threat to the life of the community”, states are afforded significant leeway to make a subjective determination based on the national context. However, commentators have suggested that an emergency that threatens the life of the nation “must imperil some fundamental element of statehood or survival of the population.”<sup>4</sup>

What is clear is that the State of Emergency must be “exceptional and temporary”, and measures adopted must be those strictly required by the exigencies of the situation. This means that the rights that are formally modified or suspended must be modified and suspended only to the extent that is necessary and proportionate to the objective of restoring order.

The requirements of necessity and proportionality relate to the following:

- The duration of the state of the emergency, which must only be as long as the threat to the life of the nation;
- The geographical coverage of the State of Emergency, which should be limited to the area under threat;
- The material scope of the State of Emergency and any measures of derogation resorted to, which must be only those necessary and proportionate to overcoming the threat.

### **National Law**

Legislative Decree No. 52, which grants the government the power to declare a State of Emergency, provides that a State of Emergency may be declared in “all or part of the Lebanese territory when the country is exposed to an imminent danger resulting from a foreign war, armed revolution, actions or turmoil threatening public order and security, or in the event of incidents characterized as a disaster.”

The inclusion of “incidents characterized as a disaster” makes this category slightly broader than in international law, where the incident must threaten the life of the nation. Legislative Decree No. 52 also does not mention the principles of necessity and proportionality when describing how the length, content or geographical coverage of the State of Emergency should be set. As Lebanon is a state party to the ICCPR, in order to interpret this piece of legislation as being consistent with Lebanon’s international obligations, it is recommended that Legislative Decree No. 52 should be read as allowing for a State of Emergency to be declared during incidents categorized as disasters where such incidents threaten the life of the nation, and in line with the principles of necessity and proportionality.

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<sup>3</sup> Paris Minimum Standards of Human Rights Norms in a State of Emergency, 1984, <https://www.uio.no/studier/emner/jus/humanrights/HUMR5503/h09/undervisningsmateriale/ParisMinimumStandards.pdf>.

<sup>4</sup> J. Fitzpatrick, 1994, 'Human Rights in Crisis: The International System for Protecting Rights During States of Emergency', University of Pennsylvania Press.

### 1.1.3 How a State of Emergency can be declared

#### *International Law*

The International Covenant on Civil and Political Rights (ICCPR), to which Lebanon is a party and which regulates the declaration of States of Emergency, requires that a State of Emergency be officially declared, and that a notification of the rights to be derogated from be submitted to the United Nations Secretary General.<sup>5</sup> State practice is that the notification submitted need only inform the Secretary General of the time period for the State of Emergency and the rights to be derogated from. The exact nature of the derogation should then be set out in domestic law or policy, through whatever internal mechanisms are available in that state. In Lebanon, the power to set the derogations has been given to the military. The military has the obligation to officially declare the derogations and must be able to justify them using the criteria set out below.

#### *National Law*

Article 65 of the Lebanese constitution provides that a State of Emergency and its termination requires an affirmative vote from two thirds of the Council of Ministers. According to Article 2 of Legislative Decree No. 52, the Council of Ministers declare the State of Emergency and obliges Parliament to meet within 8 days in order to “look into” the State of Emergency. The legislative decree does not clearly state that the Parliament’s approval is required. However, the Parliament is under the obligation to meet within these 8 days to look into the decree.

During Lebanon's history, the Parliament usually met on the same day of the declaration of the State of Emergency by the Council of Ministers. At times, the Parliament actually voted on the matter, and at other times, it merely “took knowledge”. As to this particular State of Emergency, Parliament has met on August 13th and has confirmed the State of Emergency.

### 1.1.4 The derogation of rights during a State of Emergency

#### *International law*

Derogable rights may be restricted or suspended in times of emergency only if certain conditions are fulfilled. The derogations must be necessary, proportionate and non-discriminatory. They must be time-bound. The derogations must be formally declared, through the mechanisms available in the country’s domestic legal system, and a notification of the rights derogated from should be deposited with the UN Secretary General.<sup>6</sup> Finally, they must be consistent with the State party’s other obligations under international law.

#### *National law*

Article 4 of Legislative Decree No. 52/1967 vests powers relating to law enforcement and maintaining peace and security during a State of Emergency to the Higher Military Authority. It gives the Higher Military Authority the authority to carry out:

- Confiscation/ commandeering of property, animals and people;

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<sup>5</sup> OHCHR, 2020, 'Statement on derogations from the Covenant in connection with the COVID-19 pandemic', available at <https://www.ohchr.org/Documents/HRBodies/CCPR/COVIDstatementEN.pdf>.

<sup>6</sup> OHCHR, 2020, 'Statement on derogations from the Covenant in connection with the COVID-19 pandemic', available at <https://www.ohchr.org/Documents/HRBodies/CCPR/COVIDstatementEN.pdf>.

- Searches of people and property;
- Imposition of fines, including fines that can be collectively imposed
- Deportation of suspects;
- Imposition of compulsory residence orders on individuals whose activities are determined to pose a security threat;
- Curfews and prohibition of public gatherings;
- Prohibition of publications which are determined to pose a threat to security and oversight of other forms of media “including newspapers, prints, various publications, radios, televisions, cinema movies and plays”;
- The enforcement of military rules to regulate the conduct of non-military personnel.

This section of the law is not phrased as derogating from certain rights. However, by granting the Higher Military Authority the above permissions, it is allowing them to override rights otherwise granted by Lebanese law. The power to conduct searches, for example, impacts the right to privacy. The imposition of compulsory residence orders on individuals who have not been convicted of a crime impacts the right to liberty. The prohibition of gatherings impacts the right to freedom of assembly. The power to impose curfews and restrict movements of cars impacts the right to freedom of movement. The prohibition and control of publications, newspapers and other forms of media impacts the right to freedom of expression. Other authorities granted have the potential to impact a range of rights, including the power to deport “suspects”, confiscate property (and people, according to the law, although this is not clear), and imposing collective fines.

The powers described in Legislative Decree 52 are not absolute. Soldiers’ conduct is subject to relevant laws, such as the National Defense Law, the Military Court Law, the Penal Code and the Anti-Torture Law, as well as the Code of Conduct for the Lebanese Armed Forces (LAF) in Law Enforcement. Some examples of misusing the special powers described above - for example, using the ability to confiscate property to one’s own advantage - are sanctioned by the Military Court Law. Others, such as the excessive use of force, may constitute crimes under the Penal Code or the Anti-Torture Law. However, there are many examples of excessive use of the powers set out in Decree 52 that would not constitute a violation of either the National Defense Law or the Penal Code.

Some of this conduct is regulated by the Code of Conduct for the Lebanese Armed Forces (LAF) in Law Enforcement, which makes clear that use of force and arrests carried out by the military when policing civilians and carrying out law enforcement functions must be guided by the principles of legality, necessity, proportionality, accountability, precaution and non-discrimination. However, areas in which the military may exercise special powers in a State of other than arrests and the use of force are not expressly limited by the Code of Conduct. The Code of Conduct includes a section on accountability which provides that all breaches of the Code should be investigated. Presumably, this refers to an administrative investigation leading to disciplinary action.

## 1.1.5 Policing in a State of Emergency

### *International law*

#### **Extraordinary powers**

Certain aspects about the way the law is enforced may be altered during a State of Emergency in a way that places limitations on certain rights. The rights to due process laid out in Article 14 of the ICCPR are not included in the Covenant's list of non-derogable rights. However, the Human Rights Committee - which oversees the ICCPR - has specified that because the fundamental principles of the right to a fair trial allow the courts to guarantee the protection of non-derogable rights, they are themselves non-derogable.<sup>7</sup>

The Human Rights Committee has also been unequivocal that states parties may in no circumstances invoke a State of Emergency to justify arbitrary deprivations of liberty,<sup>8</sup> and that when people are arrested and detained, they must have a right to an effective remedy to challenge the lawfulness of the arrest and detention.<sup>9</sup> Access to the writ of *habeas corpus*, which allows a person to be brought before a judge to challenge their detention within a reasonable period of time, cannot be suspended during a time of emergency.<sup>10</sup>

In terms of what will be considered "arbitrary" in terms of arrest and detention, international jurisprudence leaves a relatively wide discretion to governments to decide what is necessary and proportionate to the exigencies of the situation. However, the onus is on the government to prove that the derogations are occurring only as a result of exceptional circumstances,<sup>11</sup> and that they are accompanied by certain safeguards, including the availability of the remedy of *habeas corpus*.<sup>12</sup>

#### **Rules around the Use of Force**

The use of force constitutes a derogation to a host of rights - most notably the rights to assembly, association, expression, movement, life, and against torture and cruel treatment. The rights to assembly, association, expression and movement can all be derogated from during a public emergency. However, the government must demonstrate that formally limiting or suspending these rights is necessary to restoring in order and overcoming the threat to the life of the nation. This requires the state to make public the rights they are derogating from, how, and for how long, both internally within the country, and externally, by notifying the UN Secretary General.<sup>13</sup>

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<sup>7</sup> Human Rights Committee, General Comment No. 32, Article 14: Right to equality before courts and tribunals and to a fair trial, U.N. Doc. CCPR/C/GC/32 (2007).

<sup>8</sup> UN doc. GAOR, A/56/40 (vol. I), p. 205, para. 11.

<sup>9</sup> Human Rights Committee, General Comment No. 29.

<sup>10</sup> OHCHR, The Administration of Justice During States of Emergency, available at [www.ohchr.org/Documents/Publications/training9chapter16en.pdf](http://www.ohchr.org/Documents/Publications/training9chapter16en.pdf).

<sup>11</sup> See e.g. Eur. Court HR, Case of Ireland v. the United Kingdom, judgment of 18 January 1978, Series A, Vol. 25; 7Eur. Court HR, Lawless Case (Merits), judgment of 1 July 1961, Series A, No. 3; Eur. Court HR, Case of Brogan and Others v. the United Kingdom, judgment of 29 November 1988, Series A, No. 145-B; Eur. Court HR, Case of Brannigan and McBride v. the United Kingdom, judgment of 26 May 1993, Series A, No. 258-B.

<sup>12</sup> Eur. Court HR, Case of Brannigan and McBride v. the United Kingdom, judgment of 26 May 1993, Series A, No. 258-B; Eur. Court HR, Aksoy v. Turkey, judgment of 18 December 1996, Reports 1996-VI, p. 2281, para. 71, and p. 2282, para. 77.

<sup>13</sup> OHCHR, 2020, 'Statement on derogations from the Covenant in connection with the COVID-19 pandemic', available at <https://www.ohchr.org/Documents/HRBodies/CCPR/COVIDstatementEN.pdf>.

If a right is validly derogated from or suspended, the police may use force to enforce the derogation (e.g., to stop people assembling or associating) - but only as much force as is necessary and proportionate to this objective. In practice, this makes the rules around the use of force for the police in states of emergency extremely similar to the rules during peacetime. The main difference is that if the state has validly suspended the right to assemble, there will no longer be a presumption of the right to assemble in favour of the protestors. This means that the state does not have an initial obligation to facilitate the peaceful protest, and can move immediately to attempts to disperse the protestors, using the least amount of force possible. However, again, this is only the case if the right has been formally derogated from. The right to life and the right against torture cannot be derogated from or suspended in any circumstances.

### **National law**

#### **Extraordinary powers**

The standards laid down in Lebanese law are very similar to international law standards; while Article 4 of Legislative Decree No. 52/1967 allows for certain due process rights guaranteed under Lebanese law to be lifted in a time of emergency, other laws make clear that any derogation must be subject to certain limitations. The right to access the writ of *habeas corpus* is protected in Lebanon by Article 106 and 107 of the Code of Criminal Procedure, which guarantees the appearance of detained defendants who believe their detention is illegal to be brought before a judge in order to assess its legality and necessity. Arbitrary deprivation of liberty by a public agent is made an offence by Article 367 of the Criminal Code.

#### **Rules around the Use of Force**

Pursuant to Article 4(12) of Legislative Decree No. 52/1967, the Higher Military Authority may, if a State of Emergency is declared, “apply military regulations related to military activity when directing soldiers to armed operations and when using arms and equipment *in all needed manners in order to be able to accomplish the delegated mission*”. The reference to what is “needed” reflects the requirement under international law that the use of force be “necessary” to achieve the objective. The law provides the basis for legality required for the use of force. It does not, however, contain references to the other principles that limit the use of force under international law, including proportionality, non-discrimination, precaution and accountability.

This in itself presents risks of non-compliance with international law, as is discussed below. However, while the Decree does not go as far as is required by international law standards, it also does not contradict these standards. It should also be read together with the Code of Conduct for the LAF in Law Enforcement, which does contain all of the principles described above. It is therefore possible to read these requirements into the provisions on use of force under Article 4(12). Doing so bridges the gap between domestic and international law and would offer greater protection from the risk of excessive use of force.

## **1.1.6 Military powers in a State of Emergency**

### **International law**

#### **General powers**

The military, as state actors, are under the same general obligations as the police are when carrying out law enforcement and security functions during states of emergency. There is not yet international precedent that sets out the rules the military must follow in such situations, other

than the requirement that their involvement should be based in the law of the country.<sup>14</sup> However, the Office of the High Commissioner of Human Rights (OHCHR) has suggested that the military should only fulfil law enforcement functions “in exceptional circumstances, for limited periods and specifically defined circumstances.” OHCHR has also stated that “whenever members of military forces conduct law enforcement functions, they should be subordinate to civilian authority and accountable under civilian law, and are subject to standards applied to law enforcement officials under international human rights law.”<sup>15</sup>

### **Military courts**

The role of military courts is to try military personnel for offences committed whilst on duty, though international standards mandate this should be to the exclusion of offences involving serious human rights violations against civilians.<sup>16</sup> International law does not prohibit the trial of civilians through military courts in all cases. However, it makes the conditions these trials will be permissible in so limited that in practice, the rules of international law will allow them in only the most exceptional of circumstances.

Article 14(1) of the ICCPR provides that the right to a fair trial entitles a person to a fair and public hearing by an independent and impartial tribunal. The requirement of impartiality has two components: firstly, that judges are not biased or prejudiced; and secondly, that the tribunal appears to the reasonable observer to be impartial.<sup>17</sup> The trial of civilians in military courts will therefore not be lawful if the courts are either influenced by outside pressure or their own bias, or not seen by reasonable observers as being independent, which the Human Rights Committee has noted is generally the case with military courts. Even during states of emergency, the Human Rights Committee has stated that trials of civilians in military courts should be “exceptional”, established only when needed, on a case by case basis, and where “the regular civilian courts are unable to undertake the trials.”<sup>18</sup>

The Human Rights Committee recommended as early as 1997 that that all trials concerning civilians and in all cases concerning the violation of human rights by members of the security forces in Lebanon be transferred to civilian courts.<sup>19</sup> It again recommended the transfer of all cases involving civilians to civilian courts in its third periodic review of Lebanon in 2018.<sup>20</sup>

<sup>14</sup> Council of Europe, 2020, 'Compilation of Venice Commission Opinions and Reports on States of Emergency, available at [www.cepc.gob.es/docs/default-source/comisionveneciadoc/compilations-of-opinions-and-reports-on-states-of-emergency.pdf?sfvrsn=0](http://www.cepc.gob.es/docs/default-source/comisionveneciadoc/compilations-of-opinions-and-reports-on-states-of-emergency.pdf?sfvrsn=0)

<sup>15</sup> OHCHR, 2020, 'Emergency measures and COVID 19: Guidance', available at [https://www.ohchr.org/Documents/Events/EmergencyMeasures\\_COVID19.pdf](https://www.ohchr.org/Documents/Events/EmergencyMeasures_COVID19.pdf)

<sup>16</sup> See e.g. United Nations document CCPR/C/79/Add.13, 28 December 1992; United Nations document CCPR/C/79/Add.66, 24 July 1996; United Nations document CCPR/CO/71/DOM, 26 April 2001.

<sup>17</sup> General Comment No. 32 [21].

<sup>18</sup> General Comment No. 32 [22].

<sup>19</sup> Human Rights Committee, 5 April 2018, Concluding observations on the third periodic report of Lebanon, [https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/LBN/CCPR\\_C\\_LBN\\_CO\\_3\\_30780\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/LBN/CCPR_C_LBN_CO_3_30780_E.pdf)

<sup>20</sup> UN Human Rights Committee, 2018, 'Human Rights Committee concludes its examination of civil and political rights in Lebanon', available at [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22892&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22892&LangID=E)



## **National law**

### **General powers**

The list of prerogatives given to the military under Article 3 of Legislative Decree No. 52 have been described in the above section on derogations of rights. The Code of Conduct for the LAF in Law Enforcement provides guidance about how the military must act when taking on law enforcement functions. This is also described above, and is most relevant to limiting the powers to use force and conduct arrests. The Military Commander-in-Chief, who is put in charge of the country's security during States of Emergency, is subordinate to the Minister of Defense and the President of the Republic, bringing it under civilian authority.

### **Military courts**

Under Lebanese law, military courts are allowed to try civilians in certain circumstances, and can try military personnel for human rights violations other than those amounting to torture. Article 24(1) of the Military Court Law sets out the circumstances in which military courts may try civilians, including for crimes against national security, terrorism-related crimes, and crimes affecting the interests or against a person of the Lebanese military or security forces.

As per Article 5 of Legislative Decree No. 52/1967, prosecutions of civilians who violate the special measures adopted by the Higher Military Authority during a State of Emergency will take place before the military courts. This most likely includes detentions and arrests arising out of the current protests and civil unrest. Article 7 of the Decree provides that even after the State of Emergency ends, prosecutions remain before the military courts.

Article 24(2) of the Code of Criminal Procedure provides that if a person is subjected to acts constituting torture, the organ that has committed the act of torture cannot conduct the investigation on the matter. Instead, the matter is exclusively referred to the investigation judge in the civil courts.

## **1.2 Shortcomings, violations, and risks**

This section makes conclusions about the areas in which Lebanon's State of Emergency, both as an instrument and in practice, has violated international and national law; where it has fallen short of standards generally required under international law; and where these shortcomings present risks of additional future violations.

### ***Declaration and Extension of the State of Emergency violates the constitution***

**Violation:** Due to the mass resignation of the Lebanese Cabinet, only three caretaker Cabinet members were present at the meeting at which the State of Emergency was called. On August 17<sup>th</sup>, the caretaker government announced that the State of Emergency would be extended until September 18<sup>th</sup>. Under the constitution, declaring and terminating a State of Emergency requires approval of two thirds of the Council of Ministers - a provision which logically must also include its extension. Legal experts from Saint Joseph University and Legal Agenda have stated that both the original declaration of the State of Emergency and the extension violate the Constitution,

given that the full Council of Ministers were not present to make the decision.<sup>21</sup> The extension of the State of Emergency was also published using an administrative memo, rather than a decree issued by the Council of Ministers as required by Article 2 of Legislative Decree No. 52. The memo in question cited the government's caretaker capacity as the reason for bypassing the requirement to obtain the approval of two thirds of the members of the Council of Ministers.

Another contravention of the legal process established for declaring a State of Emergency occurred when the Speaker of Parliament, contrary to Article 2 of Legislative Decree No. 52/1967, declared that the period of two weeks *started* as of confirmation of the State of Emergency by Parliament. This was unlawful, as the State of Emergency should begin from the declaration by the Council of Ministers, and therefore end earlier than the date implied by the Speaker of Parliament.

**Risk:** The current crisis in Lebanon is in part caused due to widespread lack of trust in the government. Action taken by the government that leads to further violations will stoke these grievances. Action that violates the country's own Constitution is likely to be a particular catalyst, given that complying with this foundational document is the government's most basic duty.

**Looking Forward:** When ending the State of Emergency, the government should demonstrate its commitment to abiding by the constitution by ensuring that two thirds of the members of the caretaker government approve the termination. The State of Emergency could then be replaced by the "state of general mobilization" that is already in place in Lebanon due to the need to respond to COVID-19.<sup>22</sup> As noted by Legal Agenda lawyer Karim Nammour, "this general mobilization already allows cabinet the powers to mobilize the armed forces and to control stores and matters of a strategic nature, including controlling the prices of things like glass and wood, as well as to raise the rubble and provide relief to people."<sup>23</sup>

### ***Lack of alignment between Lebanon's State of Emergency laws and International Law***

**Shortcoming:** The components of Legislative Decree No. 52 relating to when a State of Emergency can be heard are not in direct contradiction with international standards, but do not contain the detail required for it to reflect International standards to their full extent.

**Risks:** The risks of relying on international law to supplement and guide the interpretation of national law is that not all courts have demonstrated a willingness to directly apply international law, and are least likely to do so with issues of such political sensitivity. The Code of Conduct, which provides limitations on the use of force and arrests, is a soft law document that does not have the full power of binding legislation, and therefore risks being ignored by courts adjudicating the conduct of the military.

There are significant risks of having a legal framework which allows for transfer of a wide array of powers to the military without putting comprehensive limitations on those powers, based in law.

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<sup>21</sup> The Daily Star, 13 August 2020, 'Parliament OKs state of emergency extension' available at [www.dailystar.com.lb/News/Lebanon-News/2020/Aug-13/510250-mps-convene-to-discuss-state-of-emergency.ashx](http://www.dailystar.com.lb/News/Lebanon-News/2020/Aug-13/510250-mps-convene-to-discuss-state-of-emergency.ashx)

<sup>22</sup> Naharnet, 26 March 2020, 'Diab: Current 'General Mobilization' Resembles 'State of Emergency'', available at [www.naharnet.com/stories/en/270496](http://www.naharnet.com/stories/en/270496)

<sup>23</sup> Al Jazeera, 13 August 2020, 'Lebanon parliament approves sweeping powers for the army', available at <https://www.aljazeera.com/news/2020/08/lebanon-parliament-approves-sweeping-powers-army-200813094557717.html>

In recent years, UN experts and agencies have become increasingly clear that the circumstances in which the military may be put in control must be exceptional, limited, time-bound, and subject to checks and balances on their power and ultimate oversight of the civilian authorities. This guidance has been developed after witnessing the deteriorating human rights environment in countries in which state of emergencies and military rule have been used to justify increased government control and oppression.

**Looking Forward:** In the short term, the Lebanese government could adopt a clarification of the terms of Decree 6792 making clear that all of the special powers described must be used only in line with the principles of legality, necessity, proportionality, and non-discrimination, as required under international law. Special powers relating to the use of force should also be limited by the principles of precaution and accountability.

In the long term, the Lebanese Parliament should replace Legislative Decree No. 52 with one that requires States of Emergency to be declared only during emergencies that threaten the life of the nation; to specify what derogations are being made to specific rights; describe the nature of the derogation; and make it subject to the principles described above.

The misalignment between Lebanon's State of Emergency law and the requirements set out in the ICCPR should be included in the next shadow report sent by Lebanese civil society groups to the Human Rights Committee. It could also - if the State of Emergency continues to produce increases in human rights violations - be the subject of a letter or complaint to other relevant treaty bodies and Special Rapporteurs.

### ***Failure to notify the United Nations of the State of Emergency***

**Violation:** The Lebanese government has violated Art 4(3) of the ICCPR by failing to “immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated.”

**Risk:** The notification of derogations procedure creates a system of accountability, where the government must justify any derogations from international Convention it is making on the basis of internationally agreed standards. If Lebanon does not undertake the simple task of notifying the UN Secretary General of the derogations it is making, it risks both isolating its citizens from the secondary layer of protection offered by external oversight, and further condemnation from the international community.

**Looking Forward:** The notification of derogations procedure allows states flexibility in responding to internal crises while not exposing itself to criticism by the UN or other state parties that it is violating international law. Lebanon stands to gain credibility by registering the derogations it is making with the UN, and stands to lose very little by complying with this simple procedure.

### ***Lack of clarity around the conditions of the State of Emergency and the rights derogated from***

**Shortcoming:** Decree 6792 states that the military “shall exercise the prerogatives set forth in Legislative Decree no. 52/1967”, the list of which includes searching houses, prohibiting publications and limiting people’s freedom of movement. The Decree is not clear about which

rights these measures entail derogations from or any conditions in which the prerogatives should be exercised. While there are no specific rules about the way a state should announce derogations or justify their necessity and proportionality, the failure to do either falls short of the standards expected under international law.

**Risk:** By phrasing the Decree in the language of the powers given to the military, rather than the derogations to be made and in what circumstances, the government is not engaging in the process of considering what rights may be impacted and ensuring that those restrictions do not become human rights violations. Without this analysis, there is a risk that the military will consider their powers under Decree 6792 to be unlimited, leading to violations of the rights to expression, privacy, movement and assembly, among others.

**Looking Forward:** A clarification to Decree 6792 could identify the rights to be derogated from, along with a description of the circumstances in which these derogations will take place. A failure to issue such a clarification or to reform the laws around States of Emergency should be raised in shadow reports to the Human Rights Committee and other relevant communications to international bodies.

### *Excessive Use of Force*

**Violations:** On 8 August, Human Rights Watch reported that security forces, including the Lebanese Armed Forces, fired live ammunition, metal pellets, and kinetic impact projectiles such as rubber balls, including at health workers, in response to protests that broke out across Beirut.<sup>24</sup> The use of force in these circumstances did not meet the test of necessity and proportionality, and constituted serious violations of human rights. This included violations of the right against arbitrary deprivation of life and against torture, which cannot be derogated from in any circumstances. Various human rights violations were attributed to the LAF, the ISF, and the Parliamentary Police. The LAF may have also violated the principles of precaution and accountability, depending on the extent to which the force used was planned for and the extent to which those using excessive force were held accountable. Though not all of these events were a direct result of the State of Emergency, it appears that the increased involvement of the LAF and their use of heavy weaponry, including, allegedly, live ammunition, was one factor contributing to the high levels of violence and human rights violations committed during the event.

**Risks:** The broad powers given to the military articulated in Decree 6792 and the specific references to the powers to use military weapons and equipment involves a high risk of excessive use of force - a risk that has already been realized.

**Looking Forward:** While the powers conferred under Legislative Decree No. 52 and Decree 6792 are broad and without explicit limitations, the Code of Conduct for the LAF in Law Enforcement contains very clear and specific limitations on the LAF in the Use of Force. This Code of Conduct was adopted in 2019. The current events present an opportunity for the LAF to ensure that all personnel are comprehensively trained on this document, and to test the accountability mechanisms it sets up, which require an investigation into any violations of the Code of Conduct's

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<sup>24</sup> Human Rights Watch, 26 August 2020, 'Lebanon: Lethal Force Used Against Protesters', available at <https://www.hrw.org/news/2020/08/26/lebanon-lethal-force-used-against-protesters>

terms. The LAF should make public the number of such investigations carried out and their results to ensure accountability and transparency to the public.

The Code of Conduct for the LAF in Law Enforcement was funded by the European Union (EU). The EU should insist that the LAF demonstrate it is utilizing this document.

The ISF, as the primary policing body in Lebanon and with specialized units on public order, has a role in establishing standards of conduct during public order events. Guidelines on the Use of Force during Public Order Events, based on international human rights law, principles, and best practice, should be adopted by the ISF and disseminated to all security actors involved in public order policing activity.

### ***Rights to Freedom of Expression and the Media***

**Shortcoming:** The power given to the military to prohibit or restrict certain publications under Legislative Decree No. 52 and as applied to the current situation in Decree 6792 fails to provide the protections for the right to freedom of expression required under international law. The Code of Conduct for the LAF in Law Enforcement, which contains strong language limiting the use of force and arrests, is silent on the matter of military restrictions on freedom of expression.

**Risk:** Increased surveillance and clampdowns under a State of Emergency may be seen as providing the state legal backing to quell popular anger under the pretext of the Beirut explosion. Political and religious figures have increasingly used the country's criminal insult and defamation laws as a tool for retaliation and repression against critics. Between the nationwide protests that began on October 17, 2019, and March 2020, Human Rights Watch reported that more than 60 people have been arrested or summoned for interrogation for their social media posts.<sup>25</sup> The official news agency reported on June 15 that the country's top prosecutor ordered a security agency to investigate social media posts that are offensive to the president, using the country's criminal defamation and insult laws.<sup>26</sup>

In August 2020, the Speaker of Parliament filed a criminal complaint with the Public Prosecutor office against MTV and journalists Riad Taouk and Dima Sadek, and others, for the crimes of defamation and insult. The case was filed in response to an episode of MTV's "In the Name of the People" that aired on 19 August 2020. The show was highly critical of the parliamentary police, who it said received orders from the Parliamentary Speaker directly rather than any official security entity, and who have been involved in the excessive use of force throughout the protests.

Given that these crackdowns on the media and the right to freedom of expression were occurring before the declaration of the State of Emergency, and that Decree 6792 and Legislative Decree No. 52 allows the military broad powers to control and even prohibit certain publications, it is likely that violations of the freedom of expression will increase during the State of Emergency.

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<sup>25</sup> Human Rights Watch, 12 March 2020, 'Lebanon: Spate of Free Speech Prosecutions', available at [www.hrw.org/news/2020/03/12/lebanon-spate-free-speech-prosecutions](http://www.hrw.org/news/2020/03/12/lebanon-spate-free-speech-prosecutions)

<sup>26</sup> NNA, Oueidat Assigned the Investigation Department to Conduct Investigations Regarding Posts Insulting the Head of State, available at: <http://nna-leb.gov.lb/ar/show-news/484842/>

**Looking Forward:** Any clarification made to Decree 6792 should make clear that the right to freedom of expression will be protected, and any restrictions on the media will be in line with current laws and the principles of necessity, proportionality and non-discrimination.

The EU and other donors have a role to play in insisting on increased government protections for freedom of expression. The EU in particular is well placed to suggest amending the Code of Conduct for the LAF in Law Enforcement to include specific limitations on the power of the military to control and prohibit publications.

Violations of the right to freedom of expression can be communicated to the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and - if related to the protests - to the Special Rapporteur on the rights to freedom of peaceful assembly and of association.

### *Other violations of the principles of necessity and proportionality*

**Shortcoming:** The powers conferred by Decree 6792 that are other than the powers to arrest and use force are not constrained by any other law requiring these powers to be used only when necessary and proportionate.

**Risk:** While it is unclear to what extent the Lebanese Army will exercise these powers, there is justifiable concern that further repression would stifle basic human rights, including rights to due process, freedom of movement, freedom of association and liberty. Arrests conducted during protests are of particular concern; the Human Rights Watch report cited above also noted the arrest of a number of protestors and allegations of forced drug testing on arrestees.

**Looking Forward:** A clarification of Decree 6792 should be issued by the government on this issue, as well as reforms to Legislative Decree No. 52, which insist on necessity and proportionality. This should be encouraged by the donor community. Violations of specific rights may be the subject of communications to relevant UN bodies and Special Rapporteurs.

### *Expansion of military courts jurisdiction for cases involving civilians*

**Violation:** The Decree's blanket specification that civilians who violate its terms will be prosecuted through military courts is in violation of international law standards on the conditions in which military courts may try civilians.

**Risk:** The threat of arrest and the possibility of ending up before a military court have a deep chilling effect on critics of Lebanon's government and state institutions. Those who have been tried in military courts have described torture, forced confessions, incommunicado detention, lengthy pretrial detention, decisions issued without an explanation, arbitrary sentences, and a limited ability to appeal.<sup>27</sup> Such trials violate defendants' rights to due process and international law.

**Looking Forward:** Lawyers and activists have been advocating for some time for reform of the Military Courts Act to prevent both civilians and military personnel who commit human rights

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<sup>27</sup> Human Rights Watch, 26 January 2017, "It's Not the Right Place for Us" available at <https://www.hrw.org/report/2017/01/26/its-not-right-place-us/trial-civilians-military-courts-lebanon>

violations against civilians from being tried in military courts.<sup>28</sup> The Anti-Torture Law of 2017 goes some way towards rectifying this issue and calls for cases of torture to be tried in criminal, rather than military, courts. Earlier cases of police misconduct during protests following the events of October 17 brought by lawyers to the prosecution were successfully transferred back to civilian courts from military courts under this law. Both civil society and the international community should continue to insist on such cases being tried in civilian courts. Beyond this, further legislative reforms are needed to bring Lebanese laws in line with international law in relation to the jurisdiction of the military courts.

## 1.3 Possible avenues for challenging violations

Lebanon has not ratified the Optional Protocol to the ICCPR that would make it possible for an individual or organization to submit a complaint to the Human Rights Committee about Lebanon's non-compliance with its provisions relating to states of emergencies. However, there are numerous ways Lebanon's non-compliance with international law could be challenged, both in Lebanese courts and international forums.

### 1.3.1 Domestic mechanisms

#### *Multiple cases taken using international law arguments*

Many people have now experienced human rights violations committed by state security forces who are carrying out the expanded powers allowed for under the State of Emergency declaration. Though class actions are not possible under Lebanese law, these victims could take multiple, similar cases, or alternatively, could form associations to take related cases against commanding officers who authorized the use of force or other violations against them. These complaints could be filed with the Public Prosecutor, or if the Public Prosecutor does not hear them, could be taken as civil actions.

Arguments made in these cases should rely on both national and international law. Subsection 2 of the Preamble to the Constitution of Lebanon provides that Lebanon is a "founding and active member of the United Nations Organization and abides by its covenants and by the Universal Declaration of Human Rights."<sup>29</sup> There is a growing trend of judges in Lebanon using this provision to make arguments directly based on international law in Lebanese courts. Providing further opportunities for judges to rely on international law arguments will strengthen this practice, allowing international law standards and principles to fill gaps left by the domestic law.

#### *Administrative challenges to the State Council*

Individuals who have been affected by State of Emergency measures that could be classified as administrative decisions, such as those relating to confiscations, expropriations, attempted deportations and access to information have recourse to the State Council. The State Council

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<sup>28</sup> Ibid.

<sup>29</sup> Preamble of the Constitution of Lebanon, section B, accessible at: <https://www.wipo.int/edocs/lexdocs/laws/en/lb/lb018en.pdf>

adjudicates administrative disputes between the State and individuals.<sup>30</sup> The State Council has previously played a role in enabling citizens to uphold their human rights. For example, It Issued a ruling in 2014 granting the right to truth of families of the disappeared during the civil war.<sup>31</sup>

### 1.3.2 International mechanisms

#### *Human Rights Council complaints procedure*

The Human Rights Council accepts complaints of consistent patterns of gross and reliably attested violations of any human rights occurring in any part of the world.<sup>32</sup> This means that even though Lebanon has not made itself susceptible to complaints under the ICCPR, which is the specific instrument pertaining to states of emergency, it could be the subject of a general complaint to the Human Rights Council - if an argument can be made that the State of Emergency has caused gross human rights violations. There is no clear definition of what constitutes a “gross human rights violation” under international law. However, competent international bodies tend to interpret “gross” or “serious” human rights violations broadly, and have previously held these categories to include arbitrary arrest and detention and excessive use of force by security forces.<sup>33</sup> Complaints submitted to the Human Rights Council trigger a process whereby the Council assesses the situation in the state and works with it to bring it into line with international law. It is confidential, with the aim of facilitating the cooperation of the government concerned.

Thirty eight Special Rapporteurs have already issued a statement calling for an independent investigation into the Beirut Blast, and further urged the UN Human Rights Council to be put in charge of this investigation and to hold a special debate on the Port of Beirut explosion in September.<sup>34</sup> Such an investigation should include an examination of the state of emergency, its conformity with international laws, and the potential human rights abuses that may have occurred due to its issuance.

#### *Urgent Appeals and Letters of Allegation to Special Rapporteurs*

Letters of Allegation or Urgent Appeals may be sent to Special Rapporteurs with expertise in appropriate areas, requesting either that they conduct an overall assessment of the situation in the country, or urgently respond to an individual or individuals requesting immediate intervention in specific cases.

As mentioned above, thirty-eight UN experts and Special Rapporteurs have already issued a joint statement calling for a prompt and independent investigation into the explosion. These same Rapporteurs could be approached to respond to the declaration of the State of Emergency. However, it would also be strategic to approach individual Special Rapporteurs to respond to

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<sup>30</sup> Euromed Rights, 2010, 'Lebanon: The Independence and Impartiality of the Judiciary', available at <https://euromedrights.org/wp-content/uploads/2018/03/LEBANON-The-Independence-and-Impartiality-of-the-Judiciary-EN.pdf>

<sup>31</sup> ICJ, 2018, 'The Lebanese State Council and Administrative Courts', available at [www.icj.org/wp-content/uploads/2018/10/Lebanon-Memo-re-Court-Reform-Advocacy-Analysis-Brief-2018-ENG.pdf](http://www.icj.org/wp-content/uploads/2018/10/Lebanon-Memo-re-Court-Reform-Advocacy-Analysis-Brief-2018-ENG.pdf)

<sup>32</sup> HCHR, Human Rights Council Complaint Procedure, available at <https://www.ohchr.org/en/hrbodies/hrc/complaintprocedure/pages/hrccomplaintprocedureindex.aspx>

<sup>33</sup> See e.g.: Recommendation of Hungary, Report of the WG on the UPR, Nepal, UN doc. A/HRC/17/5, 8 March 2011; Recommendation of Israel, Report of the WG on the UPR, Venezuela, UN doc. A/HRC/19/12, 7 December 2011, para. 96.25;

<sup>34</sup> Al Jazeera, 26 August 2020, 'International Justice for Lebanon', available at <https://www.aljazeera.com/indepth/opinion/international-justice-lebanon-200825125408304.html>



specific human rights violations and to trigger them to work with the government on key issues of concern.<sup>35</sup> Special Rapporteurs with relevant expertise include the following:

- Special Rapporteur on the rights to freedom of peaceful assembly and of association;
- Special Rapporteur on extrajudicial, summary or arbitrary executions;
- Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression;
- Independent Expert on the promotion of a democratic and equitable international order;
- Special Rapporteur on the negative impact of the unilateral coercive measures on the enjoyment of human rights.

Special Rapporteurs who receive Letters of Allegation or Urgent Appeals directly intervene with the state who is the subject of the communication, generally requesting them to respond to the allegation and making recommendations for follow up action.

### ***Investigation by the Committee Against Torture***

The powers given to the military to take control and to use force, weapons and military equipment to “achieve their objectives” has already led to well-documented allegations of the excessive use of force.<sup>36</sup> Any individual, organization or consortium of actors has the ability to provide the Committee that oversees the Convention Against Torture (the CAT Committee) with information indicating that the rights contained in the CAT are being systematically violated by a state party, and to request the Committee to undertake an inquiry into the allegations. The CAT may then undertake an inquiry into the situation, determine if rights guaranteed under the Convention are being systematically violated, and make recommendations to the state as to how to prevent ongoing violations and ensure the Convention is being complied with.

### ***Shadow reports***

States are under an obligation to report on the extent to which they have fulfilled their obligations under the international treaties they have ratified whenever requested by the Committee overseeing that treaty. This is generally every four years. However, Committees can also request an extraordinary report as a response to a particular issue. The Committees receive both official reports from states and “shadow reports” from civil society organizations and others who wish to provide their own information about the state's performance. Lebanon's next report to the Human Rights Committee, who oversees the ICCPR, is due in 2022. However, civil society organizations who are concerned about violations of the Convention may request that the Committee request Lebanon for an exceptional report. If the State of Emergency in Lebanon provides a facilitating environment for other types of violations- such as violations to the rights of women or minorities- this information may also be included in shadow reports under other Conventions.

Lebanon is due to receive a “list of issues” that must be covered in its report to the Committee overseeing the Convention on the Elimination of Discrimination Against Women (CEDAW), and to be issued Concluding Remarks by the Committee overseeing the Convention on the Elimination of Racial Discrimination (CERD), in 2020.

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<sup>35</sup> OHCHR, 13 August 2020, 'UN human rights experts call for justice and accountability in response to Beirut explosion', available at [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26163&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26163&LangID=E)

<sup>36</sup> Human Rights Watch, 26 August 2020, 'Lebanon: Lethal Force Used Against Protesters', available at <https://www.hrw.org/news/2020/08/26/lebanon-lethal-force-used-against-protesters>

## 1.4 Recommendations

### To the Lebanese Government

#### *To the Lebanese Council of Ministers*

- Deposit a notification of the State of Emergency with the UN Secretary General, along with a list of the rights derogated from.
- Terminate the State of Emergency, through a Decree and after obtaining the agreement of two thirds of the Council of Ministers, to demonstrate commitment to abiding by the Constitution.
- Failing a termination of the State of Emergency, adopt a clarification of the terms of Decree 6792 making clear that all of the special powers described must be used only in line with the principles of legality, necessity, proportionality, and non-discrimination, and special powers relating to the use of force must also be limited by the principles of precaution and accountability.
- Issue a Decree providing that all powers given to the military under States of Emergency and Special Mobilizations will be subject to the above principles and in conformity with international law.

#### *To the Lebanese Parliament*

- Replace Legislative Decree No. 52 with one that requires States of Emergency to be declared only during emergencies that threaten the life of the nation; to specify what derogations are being made to specific rights; to describe the nature of the derogation; and make it subject to the principles of legality, necessity, proportionality, and non-discrimination. State clearly in this new Legislative Decree that crimes committed during the state of emergency by citizens will continue to be tried under civilian courts.

#### *To the Security Agencies*

- Update the Code of Conduct for the LAF in Law Enforcement include limitations of legality, necessity, proportionality and non-discrimination for all powers given to the military to place limitations on people's rights, in addition to those relating to arrests and the use of force.
- The ISF and LAF to hold investigations into breaches of their respective Codes of Conduct. Publicly release information about the number of investigations held and their outcome.
- For the LAF to publicly state that the powers of the military during the State of Emergency will be limited by the requirements of international law, and in particular the principles of legality, necessity, proportionality and non-discrimination.
- The ISF and the LAF to meet to compare, discuss and align their respective guidelines on the Use of Force during public order events. The Guidelines on the Use of Force During Public Order Events, currently being developed by the ISF, can serve as a strong basis for this joint approach. This meeting should result in tangible actions taken to ensure the guidelines used by each are consistent and that all ISF and LAF members are trained on their content.

- Both the LAF and ISF to develop specific guidelines and training modules on policing during a State of Emergency, emphasizing the principles of necessity and proportionality and the specific human rights risks that such a situation entails.

### ***To the Judiciary***

- Conduct investigations into the disproportionate use of force, as well as other human rights violations, by security forces during public demonstrations. Where cases have already been brought by lawyers on behalf of protestors, prioritize these and ensure they are conducted professionally, transparently, and impartially.
- Apply international law when adjudicating on cases relating to the State of Emergency, disproportionate use of force, and other violations by the Lebanese Security Forces. Decide any case that comes before the State Council with explicit reference to human rights and international law.

## **To the International Community**

### ***To Donors***

- Support the amendments to the Code of Conduct for the LAF in Law Enforcement described above. The EU would be well placed to do this given its previous support in developing this document.
- Request that high level members of the Government and military make a public commitment to respecting human rights during the State of Emergency, including the rights to freedom of assembly, association, expression, movement, liberty and due process rights, and offer support to the government to implement such commitments through both law reform and training and technical support for security forces.
- Further insist on the need for credible, transparent investigations into any instances of potential disproportionate use of force or breaches of human rights during public demonstrations, and the need for results to be made public.
- Continue advocating for all cases involving civilians and members of the military who have committed violations against civilians to be tried in civilian courts, using the excessive overreach of military court jurisdiction allowed by the current State of Emergency as leverage.

### ***UN Human Rights Committee***

- The Human Rights Committee should request Lebanon to submit an ad hoc report on the specific issue of how it will ensure human rights protections during its State of Emergency and General Mobilization. It should include the misalignment between Lebanon's State of Emergency law and the requirements set out in the ICCPR, its failure to notify the Security Council of its State of Emergency, and its failure to specify the human rights derogated from in the list of issues it sends to Lebanon to address both in its ad hoc report and in the general report to be submitted before the next reporting deadline.

### ***To other UN Treaty Bodies***

- The CEDAW Committee should include questions about the way the State of Emergency has affected women in the list of issues for Lebanon to consider before its next report, which it will be issuing later this year.
- The CERD Committee should include observations about the way the State of Emergency has affected racial minorities in its Concluding Remarks on Lebanon, to be issued later this year.

### ***To UN Special Rapporteurs***

- The Special Rapporteurs on the rights to freedom of peaceful assembly and of association; and promotion and protection of the right to freedom of opinion and expression should intervene, offering direct and strategic support to the Lebanese government to make sure these rights are protected during the State of Emergency.

# Section 2: Command Structure Analysis

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## 2.1 Overview

The command structure that has emerged in the aftermath of the events of August 4th is highly complex. A complete picture is still emerging; the following analysis should be considered preliminary and is based on initial consultations with a range of stakeholders across the security, political, and non-governmental sphere in Lebanon. The situation continues to develop and coordination structures are likely to improve over time. Analysis here focuses primarily on security actors' roles within this structure in relation to the State of Emergency, but does take account of broader elements of the coordination structures that have emerged.

According to Decree No. 6792 declaring a State of Emergency in Beirut, the Army “assumed immediately the power of maintaining security”.<sup>37</sup> The Decree placed all security agencies under LAF command; while they are still required to carry out their basic duties in accordance with laws and regulations governing their own respective agencies, they now report to LAF Command. The Decree also highlights the ability of the LAF to draw down resources from these forces to task the with assignments in relation to security operations, guarding duties, and rescue missions. Importantly, beyond a responsibility for maintaining security, the Decree provides no additional powers to the LAF for coordinating the blast response. These new powers have since been mixed into an already existing complex web of coordination, governance, and command, at both the strategic and operational level.

### 2.1.1 Strategic Command

The Higher Council for Defense (HCD) remains responsible for setting the overall defense policy. During the State of Emergency, The LAF (via the Ministry of Defense) remains under the control of HCD. The HCD is presided over by the President of the Republic, therefore ensuring at least nominal civilian control over the armed forces, a key precondition of international law. The Secretary General of the Council is mandated to be an active duty officer from the Army, and is nominated by decree taken in the Council of Ministers upon the proposal of the Prime Minister and the Minister of Defense.

As noted above, other security agencies, including the ISF, now fall under the command of the LAF in relation to security duties. Strategic coordination ostensibly emanates from the Higher Defense Council, which includes the Ministry of Interior and Municipalities. However, thus far, no structured and operational coordination mechanism has been identified between the LAF, ISF, and other security agencies in relation to command and control for managing internal security. The continued presence of the Parliamentary Police, a separate force that wears the same uniforms as some ISF units but falls outside of its command structure, report to the Speaker of Parliament, and are not bound by the same code of conduct or training, continues to negatively

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<sup>37</sup> Ministry of Interior and Municipalities, Decree no. 6792: Declaration of the State of Emergency in Beirut.

affect the coherence and professionalism of the broader security response to public demonstrations.<sup>38</sup> The parliamentary police are often reported to be responsible for serious abuses, including the use of live ammunition during the August 8th protests. The State of Emergency, and the powers this provided to the LAF to command all state security agencies, does not appear to have translated to effective control over this auxiliary group.

Authorities and mandates in relation to broader emergency response are also unclear. The Disaster Risk Management (DRM), based at the Presidency of the Council of Ministers, is purportedly responsible for disaster management. Although without a legal framework, the DRM is composed of two committees each constituted by a series of decisions, and both chaired by the Secretary General of the High Council of Defense. According to the decisions, one committee is responsible for emergency plans, and the second for coordinating the response to an emergency situation. Security agencies, including the ISF, are included in at least one of the committees. However, based on anecdotal evidence, it does not appear that any strategic direction was provided to security actors, including the ISF, by the DRM in the aftermath of the Beirut explosion.

The UN has also activated its own coordination structure. As per UNOCHA rules, the Humanitarian Coordinator (HC) and Resident Coordinator are jointly responsible for the implementation of the Flash Appeal for Lebanon, assisted by the Humanitarian Country Team (HCT). According to a visual produced by UNOCHA, coordination occurs at this level between UNOCHA and the Deputy Prime Minister/Minister of Defense.<sup>39</sup> It is unclear to what degree this coordination has been made operational.

### 2.1.2 Operational Command

At an operational level, the LAF have created a Forward Emergency Room (FER) for coordinating, in broad terms, the on-the-ground response. As per the LAF website, the FER's mandate includes mapping needs & support, coordinating efforts, and supporting NGOs and volunteers, in addition to safeguarding the city and the people. Importantly, this mandate goes beyond that outlined in the State of Emergency Decree issued on 7 August 2020. It also goes beyond the powers conferred to the army in Legislative Decree No. 52/67 regulating States of Emergency. Legislative Decree No. 52/67 grants the army the power to preserve security and to take the necessary measures in order to do so. The legislative decree does not extend these powers to all levels, notably on the humanitarian level. No legal or regulatory text has been identified in relation to the FER and the legitimacy of its mandate, and whether or not this legitimacy is linked to the current State of Emergency. Membership includes a range of state actors, as well as the Lebanese Red Cross. Notably, no representative from either the ISF nor General Security was included in its initial conception, although Civil Defense was.

In addition to this state-led coordination mechanism, a number of non-state mechanisms also exist at the operational level. UNOCHA has established an Emergency Operation Cell and is working with other UN agencies and major INGOs to establish its sectoral coordination structure. As per UNOCHA rules, a dedicated civil-military Coordination Officer based in Beirut is meant to ensure continuous liaison and communication with the host nation's armed and security forces

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<sup>38</sup> Human Rights Watch, 26 August 2020, 'Lebanon: Lethal Force Used Against Protesters', available at <https://www.hrw.org/news/2020/08/26/lebanon-lethal-force-used-against-protesters>

<sup>39</sup> UNOCHA (August 2020), '2020 Flash Appeal: Lebanon', p. 8.

regarding the response to the humanitarian emergency. Initial findings indicate that coordination meetings have taken place between UNOCHA and FER, although the exact division of roles between these two coordination bodies remains unclear. The situation is further complicated by the wide range of civil society, NGOs, and volunteer groups that have emerged in the aftermath of the blast. Anecdotal evidence indicates that NGOs remain largely unclear as to the role of the LAF and what their relationship to the FER is meant to be, if any. Grassroots efforts have emerged to improve coordination at this level, to various degrees of success.

## 2.2 Shortcomings & Threats in Relation to Current Structure

### *Lack of coordination at both a strategic and operational level.*

**Shortcoming:** As has been widely reported, the state has been slow, inconsistent, and uncoordinated in its response. Although much of this falls beyond the scope of the State of Emergency, it has no doubt contributed to the confusion regarding who is in charge of what. In particular, coordination between the ISF and LAF at both levels has been weak. The non-involvement of the ISF in the initial FER is indicative of the lack of faith that the LAF has in the ISF's capacity to assist. The State of Emergency appears to have been declared without prior consideration given to how it would be made effective.

**Risk:** A lack of coordination will continue to hamper any efforts of the ISF to support in the relief efforts, further undermining their public image and their basic role as the primary policing entity in Lebanon. More importantly, this poor coordination is having a real and detrimental impact on the ability of those affected by the blast to access the basic goods and services they need. The human security of the most vulnerable continues to deteriorate, in part due to this poor coordination.

**Looking Forward:** In the short-term, effective coordination mechanisms need to be established between the ISF and LAF. Longer-term, there are key lessons to be learnt from the post-blast emergency situation, particularly with regards to state actor coordination. Joint protocols, training, and ultimately understanding between the LAF and ISF (as well as other actors such as Civil Defense and the Lebanese Red Cross) would likely have a significant positive impact during possible future emergencies.

### *Lack of clear command and control in relation to the policing of public order events.*

**Shortcoming:** Public order management in the immediate aftermath of the blast was particularly poorly coordinated, with LAF nominally in control but without any planning or coordination with the ISF. This lack of coordination further raises the potential for the types of human rights abuses noted in section 1. The presence of additional security actors, notably the Parliamentary Police, that fall outside the traditional command of both the ISF and LAF and are not bound by the same laws nor codes of conduct, further complicates this picture and raises additional risks.

**Risk:** Poor coordination risks further human rights abuses and continued aggravation of protestors.

**Looking Forward:** Although LAF has adopted overall command, public order planning should be done in partnership with the ISF. The ISF Public Order Manual of Guidance, approved and endorsed by the ISF Director General, offers the potential for a well-coordinated public order response based on international best practice, and should be made operational. Joint awareness raising and training exercises should occur between the ISF and LAF to familiarize the LAF with the principles contained within this document. Concurrently, every effort should be made to remove the Parliamentary Police from such events.

### ***Overreach of LAF beyond Decree No. 6792***

**Shortcoming:** The decree refers only to security missions. Yet, as stated above, the FER is also leading in activity in relation to NGO coordination, needs assessments, and the like. LAF have also been, at times, directly responsible for aid distribution. According to the LAF website (in reference to National Defense Law 16/09/1983) the LAF may take on a development and humanitarian role, including in “Managing natural disasters in coordination with the concerned agencies in the country as well as forming specialized committees to evaluate the damages of these disasters, Rescuing citizens trapped in snow and floods and distributing medical and food supplies as well as launching vaccination campaigns for children in remote areas, [and] Distributing different types of aid in poor or damaged areas and in schools, hospitals, municipalities etc.” It is unclear, however, whether they’ve received a specific mandate from the government to carry out these specific duties in the current situation.

**Risk:** There are serious questions to be raised as to whether the LAF should be responsible for these duties and whether they have the required capabilities for conducting such activity efficiently, effectively, and transparently. These duties place additional strain on limited LAF resources, while also further undermining the role and long-term legitimacy of other state actors that should be central to the response.

**Looking Forward:** The international community, due to its large role in funding the immediate response efforts, should push, wherever possible, for civilian, rather than LAF, control over non-security coordination matters.

### ***Lack of clarity regarding continuity plans to maintain command and coordination structures beyond the State of Emergency.***

**Shortcoming:** It is unclear whether the FER was set up specifically under the auspices of the State of Emergency, or whether this is a coordination mechanism that stands outside of that mandate and, therefore, will continue beyond the State of Emergency. If the former, it does not appear that there are any plans for the transfer of control of the FER to civilian authorities. If the latter, it again raises questions regarding the LAF's long-term role in coordinating a humanitarian response.

**Risk:** The lack of continuity planning beyond the State of Emergency heightens the risk of continued poor coordination, both at a strategic and operational level. The government's current caretaker status further heightens this risk, as there is likely to be a lack of ownership or initiative from the state until the new government is appointed.

**Looking Forward:** In line with the above, continuity planning should commence involving all relevant stakeholders. Coordination should involve OHCHA as well as other major UN agencies,



INGOs, and civil society networks on the ground. A clear coordination structure should be agreed amongst all major parties to ensure aid is effectively reaching those in need and resources are accounted for.

## 2.3 Recommendations

### To the Lebanese Government

#### *To the Lebanese Parliament*

- The Lebanese Parliament should either disband the Parliamentary Police, or should pass legislation that transfers their command to the ISF and brings them under their laws and Code of Conduct.

#### *To Security Agencies*

- At a strategic level, a joint coordination structure including the LAF, ISF, General Security, and Civil Defense, and drawing on their respective crisis management functions where relevant, should be established under the direct command of the head of the LAF in order to guide overall strategy throughout the State of Emergency. The FER should be linked to this to align operational and strategic decision-making.
- LAF and ISF should immediately commence joint planning for public order events, in accordance with the ISF Public Order Manual of Guidance.
- The ISF Public Order Manual of Guidance should be disseminated to other security agencies, and joint trainings and awareness raising workshops should be held to develop familiarity and, eventually, competency in the basic aspects of the public order manual, as well as to agree inter-agency coordination structures.

### To the International Community

#### *To Donors*

- Donors should continue to push for improved transparency in relation to the management and coordination of incoming aid and relief. Where possible, efforts should be made to emphasize civilian, rather than LAF, coordination of aid efforts.
- Donors should demarche the Speaker of Parliament, express concerns regarding the Parliamentary Police, and insist that the Parliamentary Police are either disbanded or come under formal government control, in line with international standards related to state security agencies.

## Annex 1: Table Derogable & Non-Derogable Rights

	<b>ABSOLUTE</b>	<b>QUALIFIED</b>
<b>Non-derogable</b>	<ul style="list-style-type: none"> <li>• Right not to be subjected to torture or cruel, inhumane and degrading treatment</li> <li>• Prohibition against the retrospective operation of criminal laws</li> <li>• Right to recognition before the law</li> </ul>	<ul style="list-style-type: none"> <li>• Right to life</li> <li>• Right to non-discrimination</li> <li>• Freedom of thought, conscience and religion- the “right to manifest” component</li> </ul>
<b>Derogable</b>	<p><b><i>*All absolute rights are non-derogable.</i></b></p>	<ul style="list-style-type: none"> <li>• Right to liberty</li> <li>• Right to freedom of expression</li> <li>• Right to privacy</li> <li>• Right to freedom of movement</li> <li>• Freedom of thought, conscience and religion- the “right to hold” component</li> </ul>



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### About Siren

We help develop safe and secure societies where there is equal access to justice and freedom from fear.

Specialising in civil policing transformation and broader public sector reform, we empower and build the capabilities of organisations to become more responsive to the needs of communities. We support our clients through the process of strategic change, combining an Organisation Development approach with advanced technology and customised solutions.

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