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Racism, racial discrimination, xenophobia and related forms of intolerance: follow-up to and implementation of the Durban Declaration and Programme of Action

Written statement* submitted by Coordination des Associations et des Particuliers pour la Liberté de Conscience, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[22 August 2023]

* Issued as received, in the language of submission only.

The use of law and military justice to repress "political dissent" in Lebanon: the Omar Harfouch case

1. "The Omar Harfouch Affair": A Reminder of the Facts

In March 2023, Omar Harfouch attended a conference in the European Parliament discussing terrorism support. He spoke about corruption in Lebanon, leading to backlash from left-wing media, Hezbollah, and Lebanese authorities. Accused of "contact with an enemy state" (Israel), he was attacked in Beirut and faced legal action. The case analysis and context are discussed.

2. Who is Omar Harfouch? Why is He Persecuted?

- **Background and Activism:** Born in Lebanon, Omar Harfouch is a pianist, businessman, and activist. He won recognition for efforts against corruption and advocating for institutional reforms. He's also been involved in women's rights and environmental causes.
- **Anti-Corruption Campaign:** Harfouch launched a petition to freeze Lebanese public funds in European banks, supervise the central bank, and establish transparency in public life. His efforts garnered over 100,000 signatures and prompted the European Parliament's attention.
- **International Collaboration:** Harfouch worked with French judge Charles Prats and senator Nathalie Goulet to combat corruption and money laundering. He exposed financial wrongdoing involving high-profile individuals.
- **Political Aspirations:** Harfouch aimed to reform Lebanese institutions and establish a secular republic. He stood in parliamentary elections, gained recognition in France, and won the "Olivier de la paix" award for anti-corruption efforts.
- **Persecution and Legal Actions:** Lebanese Prime Minister Mikati and others targeted Harfouch with complaints and legal actions. He exposed alleged money laundering by prominent figures, leading to significant seizures and arrests.
- **"Links with Israel" Accusation:** Accusations of connections with Israel were used to silence Harfouch. Alleged contacts with an American-Israeli journalist were used against him, and he was accused of revealing state secrets.
- **Judicial Involvement:** Key judges, such as Ghassan Oueidate and Samaranda Nassar, have played roles in pursuing legal action against Harfouch. Oueidate dismissed corruption investigations, while Nassar issued the arrest warrant.
- **Complex Motives:** The report suggests a coordinated effort by political and bureaucratic figures to target Harfouch due to his anti-corruption stance and exposing financial misconduct. The "links with Israel" accusation appears to be part of this strategy.

3. Lebanese Laws on Contacts with Israel

Lebanon and Israel have been in a state of war since 1948. Diplomatic relations are absent, and laws exist regarding interactions with Israelis. The 1955 boycott law prohibits contact with Israelis and commercial transactions. Article 1 of the law outlines the prohibition of agreements with Israelis in business or finance, punishable by three to ten years of hard labor. Article 285 of the Lebanese Penal Code deals with commercial relations with "enemy countries."

4. The Role and Importance of Military Justice in Lebanon

Military courts in Lebanon expanded their jurisdiction due to amendments in the Penal Code. The Permanent Military Court, composed mostly of army officers, handles cases that

may not constitute military offenses. Council of Justice oversees matters related to national security and treason. Military justice operates under a law from 1968, with fewer defendant protections than ordinary courts. The system's hierarchy is linked to the Ministry of Defence.

5. Discussion of the Specific Case of Mr. Omar Harfouch

• 5.a. Accusations Against Omar Harfouch

Details of the charges against Omar Harfouch are uncertain. Harfouch and his lawyers were not notified of the arrest warrant. It's unclear what sentence he might face, ranging from three years' hard labor to the death penalty if convicted of treason. Designating him as a "traitor" puts him at risk from extremist factions like Hezbollah. If arrested, he could face torture, which is still widespread in Lebanon despite legal protections.

• 5.b. Unenforceable Law with Variable Interpretation

Lebanese legislation regarding contacts with Israel is imprecise and broad, leading to varying interpretations. The definition of "contact" is unclear, making application inconsistent. The recent maritime border agreement between Lebanon and Israel further complicates this discussion. The involvement of an Israeli-American dual national in negotiations raises questions about the applicability of Lebanese law.

• 5.c. Ethical Position of Omar Harfouch

Omar Harfouch emphasizes an ethical stance against discriminating based on nationality or ethnicity. He refuses to inquire about the origin or nationality of people he meets, recognizing that such actions could be perceived as racist or anti-Semitic.

6. Denunciation by Al-Akhbar and its Aftermath

After the conference, the newspaper al-Akhbar strongly criticized Omar Harfouch's participation in a room with "Jews," "Zionists," and "pro-Israelis," accusing him of not leaving immediately. Several political parties filed complaints against him. While in New York, Harfouch learned of an arrest warrant issued by the Prime Minister. He feared being arrested upon arrival in Lebanon and held in poor conditions without trial.

7. Other Cases of Prosecution for Similar Reasons

Omar Harfouch is not the only Lebanese citizen prosecuted for contacts with Israelis:

- Carlos Ghosn faced proceedings due to a trip to Israel as part of his work. The statute of limitations later expired, and he was not prosecuted.
- Ziad Doueiri, a director, faced issues over scenes shot in Israel for his film. His case was dismissed.
- Kinda el-Khatib, an activist, was charged with contacts with Israelis and "espionage." She was released pending appeal after being sentenced to three years in prison.

Other individuals faced media and political attacks without prosecution, including:

- Bechara Boutros al-Rahi, Maronite patriarch, criticized for a trip to the Holy Land.
- Salwa Akar, "Miss Lebanon," criticized for a photo with "Miss Israel."
- Amin Maalouf, an author, faced criticism for an interview with an Israeli channel.

8. Conclusion

Key points demonstrated are:

- Omar Harfouch's innocence of the accusation and that no treason charge holds.
- Lebanese laws on relations with Israelis are outdated, contradicting international law, and rejected by a significant portion of Lebanese society.
- Harfouch's moral stance against selection based on nationality or religion is commendable.
- These laws are used politically to suppress dissent and critical attitudes.
- Military justice serves as a tool for political repression.
- Harfouch's case reveals political persecution related to his anti-corruption stance and criticism of authorities.
- This persecution might divert attention from other issues and shortcomings in the justice system.
- Harfouch would not receive a fair trial in Lebanon, and his safety and his family's safety are at risk.
