

The Trajectory of Sex Offenders Through the Lebanese Criminal Justice System: A Tale of Human Rights Violations

By
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Abstract

This study aims to examine the trajectory of sex offenders through the Lebanese criminal justice system while highlighting various human rights violations. It attempts to fill in the gaps within the literature through building on the existing research and by examining the processes and experiences of arrest, detention, court, prison and release. Recently, numerous scholars have argued that most criminal justice systems are following a popular punitive trend rather than focusing on rehabilitation. This study through its focus on human rights violations, participants' attitudes and beliefs as well as issues of rehabilitation and treatment of prisoners firmly places Lebanon within the global trend of popular punitiveness.

Seventy-three interviews were carried out with sex offenders, police officers, prison guards, judges and lawyers within Lebanon. These qualitative interviews captured criminal justice professionals' and offenders' experiences, attitudes and perceptions surrounding sex offending and the criminal justice system. The thematic analysis of the interviews specifically focused on uncovering how sex offenders moved through and were dealt with by the Lebanese criminal justice system. Human rights violations were found to be abundant at the various stages of the criminal justice system. Participants highlighted events such as the excessive use of torture within police stations as well as prisons, the use of forced confessions, and the lack of legal representation.

Numerous factors were found to play a role in conceding the copious violations of sex offenders' rights occurring at the various stages of the criminal justice system. These factors included corruption, the lack of accountability, police culture, the commonly held belief that offenders are undeserving of human rights, the lack of training, and religion. In investigating the structure and the functioning of the criminal justice system, it became evident that religion played a vital role. Religion dictated professionals' positions within the criminal justice system and influenced participants' beliefs and attitudes surrounding sex offenders. Because of its influence, religion played a vital role in paving the way for the re-occurrence of human right violations. For example, religion granted the criminalisation of homosexuality and the act of 'de-virginizing' as well as legalising marital rape, all of which result in human rights violations. In order to move Lebanon, and other punitive countries, towards a more rehabilitative criminal justice approach, this study highlights the importance of training, change in legislation, as well as the separation of religion from law.

Key words: sex offences; criminal justice systems; human rights; punitiveness; religion; care and treatment; torture; corruption; popular punitiveness; rehabilitation.

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Introduction

Introduction

Lebanon has, throughout recent history, systematically attracted media and international human rights organisations' attention. Both have primarily focused on Lebanon's fragile situation: the influx of Syrian refugees and their human rights, as well as the recent waste management crisis. For example, Human Rights Watch (2015, August 22) published 'Lebanon: Police Violence Against Protesters' detailing the human rights violations experienced at the hands of the police during demonstrations. Moreover, Human Rights Watch 2016 World Report addressed issues of torture, lack of freedom of assembly and expression, and other violations. In addition to these issues, several international bodies such as Amnesty International, Human Rights Watch and the United Nations published several less publicised reports outlining general human rights violations within Lebanon. The Human Rights Watch (2015, October 29) for example, has published several reports concerning

“ill-treatment and torture of detainees by a range of security forces; discriminatory provisions against women's rights in personal status laws, nationality laws and the criminal code; the exclusion of migrant domestic workers from the labour code; the restrictive immigration rules based on the kafala¹ system that apply to migrant domestic workers; the risk of detention of Syrian refugees without legal status; the lack of progress on the rights of Palestinian refugees; and the lack of movement on a draft law to create a national commission to investigate the fate of the disappeared”.

Despite this, there is a general lack of systematic research surrounding the experiences of specific types of offenders, such as sex offenders, within the Lebanese criminal justice system. Where research does occur, it mostly focuses on the prevalence, and the victims of sex offending. Moreover, little is known in regards to how the Lebanese criminal justice system

¹ Kafala: a sponsorship system started in the 1950s. Under the kafala worker's system a migrant's immigration status is legally bound to an individual employer or sponsor (kafeel) for the contract period. The migrant worker cannot enter the country, transfer employment nor leave the country for any reason without first obtaining explicit written permission from the kafeel (sponsor)” (Migrant Forum, n.d.).

functions, and what factors may result in the incitement of human rights violations. Where research does exist, it focuses on general human rights violations such as the use of torture on suspects and offenders during arrest and detention; however, it does not specify how offenders progress through the system and whether all types of offenders share the same experiences. The lack of information means there is a shortage in research surrounding the possible cases of human rights violations sex offenders may have experienced while moving through the criminal justice system.

Background

There is some confusion in relation to what constitutes a sex offence within Lebanon. This confusion is due to the inadequate definition of sex offences, their subjectivity and the fact that some actions (which are internationally considered to be sex offences) are excluded. For example marital rape, which is criminalised across the Western World, is still legal within Lebanon.

The inadequate definition of sex offences and their subjectivity results in numerous people being ignorant as to what constitutes a sex offence. The unfamiliarity surrounding sex offences may be due to the fact that the existing research is concerned with the victims and rarely the offenders and offences themselves. Moreover, the exclusion of acts such as “meeting a child following sexual grooming” and “assault by penetration” may be due to focusing on the more common sex offences like rape, sexual harassment and assault (Sentencing Council, 2014). In relation to the lack of research, one possible explanation is the general lack of willingness to examine sex offences due to the taboo associated with them. Several studies have highlighted the affects of taboo on the reporting of sex offences. For example, Fontes’ ‘Disclosers of Sexual Abuse by Puerto Rican Children’ found “participants from a variety of backgrounds agreed that the general cultural taboos about discussing sexuality may inhibit disclosures of abuses” (1993:33). Such studies have concluded that the taboo associated with sex offences results in under-reporting, the lack of willingness to deal with sex offenders and a general lack of visibility. This lack of visibility, reporting and research can be applied to Lebanon and has resulted in the misguided belief that within Lebanon sex offences are not a regular occurrence. However, examination of the existing research evidences that sex offences do occur within Lebanon.

Prevalence of Sex Offending

Studies that examined the prevalence of sex offending included Usta, Mahfoud, Abi Chahine, and Anani. Usta et al.'s "*Child Sexual Abuse: the Situation in Lebanon*". Usta et al. conducted a cross-sectional survey of 1000 children (aged between 8-17) and focus groups (five of which were with parents and educators and five with children aged 8-17) with the aim of examining the prevalence of and opinions surrounding Child Sexual Abuse and marital rape.

The results of the survey indicated that out of 1000 participants, 165 (16.1%) of the children were sexually abused either before or after the 2006 war². Before the 2006 war, Usta et al. found that in total "46% of participants were abused" (Usta, Mahfoud, Abi Chahine and Anani, 2007:38). Amongst the cases examined, there were:

- 89 cases of sexual abuse attempts (8.7%),
- 128 cases of sexual abuse actions (12.5%) and,
- 50 (4.9%) cases of sexual abuse through Information and Communication Technology (ICT)" (Usta, Mahfoud, Abi Chahine and Anani, 2007:39) (See Appendix One).

Further examination of the results showed:

- "86 children were touched against their will,
- 66 children were kissed or hugged against their will and,
- 39 were forced to watch movies or look at pictures in a magazine" (Usta, Mahfoud, Abi Chahine and Anani, 2007:39).

When asked about the definition of Child Sexual Abuse, the participants defined it as the "touching of private parts or having sex with a child by force or following seduction" (Usta, Abi Chahine and Anani, 2007:75). The use of sexual language and exposure to films or pictures were disregarded. In relation to reporting the offence, participants stated that if the victim was a girl and the perpetrator was a family member then they would remain silent to avoid a

² In 2006 "after eight Israeli soldiers had been killed and two captured by the Lebanese group Hezbollah, Israel and Hezbollah engaged in a 33-day war in which Hezbollah fired a hail of rockets into Israel and the Israelis bombed Lebanese towns, villages and infrastructure but made little headway in ground operations" (BBC News, 2008 May 6).

scandal (Usta, Abi Chahine and Anani, 2007:76). Whereas if the victim was a boy and the perpetrator was not a family member then they were more likely to report it (Usta, Abi Chahine and Anani, 2007:76).

In addition to the perceptions of Child Sexual Abuse, focus groups examined participants' views surrounding marital rape. "Many of the women that took part did not approve of discussions regarding marital rape and considered sex during marriage as a husband's right" (Usta, Abi Chahine, and Anani, 2007:75). Moreover, participants of focus groups did not want to openly discuss sexual violence as they believed it was societally a "taboo and a matter that should be kept private" (Usta, Abi Chahine and Anani, 2007:75). The taboo and the belief that sex is a husband's right are two contributing factors to the concealment of marital rape.

In addition to Usta et al.'s study the Lebanese Ministry of Justice published a list of crimes committed by juveniles. Although this study was not specifically targeting the issue of sex offending, it is important as it further highlighted the prevalence of sex offending (Appendix Two). The Ministry of Justice (2010) list showed juveniles had been accused of, witnessed, or had fallen victim to the following crimes in Lebanon:

- Theft,
- Assault,
- Possession of weapons,
- Rape and sexual harassment,
- Indecent acts,
- Prostitution,
- Suicide,
- Intoxication,
- Abortion and,
- Drugs.

The study began in 2006 and extended to 2010. It is unknown why these dates were chosen, and why the collection of such data was discontinued.

According to the Ministry of Justice, amongst the 2,259 juveniles examined in 2010:

- 18 (0.79%) were accused of rape and sexual assault,
- 51 (2.25%) were accused of indecent acts, and
- 33 (1.46%) were accused of prostitution

Examining the same offences amongst a total of 1,348 juveniles, statistics retrieved in 2006 showed:

- 18 (1.33%) were accused of rape and sexual assault,
- 25 (1.85%) of indecent acts and
- 18 (1.33%) of prostitution (Ministry of Justice, 2006).

The total number of juveniles accused had risen from 1,348 (2006) to 2,259 (2010). It is unknown whether this was due to a rise in crime or due to a rise in the reporting of crimes. Moreover, at first glance it might seem that the number of people accused of rape and sexual assault remained the same. However, it is important to keep in mind that the total number of juveniles examined varied.

In relation to victimisation, the Ministry of Justice found that among 386 juveniles examined in 2010:

- 37 (9.58%) were victims of rape and sexual assault,
- 41 (10.62%) were victims of indecent acts and
- 1 (0.25%) of prostitution (Ministry of Justice, 2010).

Alternatively in 2006, out of 156 juveniles:

- “54 (34.61%) were victims of rape and sexual assault,
- 4 (2.56%) of indecent acts and
- None of prostitution” (Ministry of Justice, 2006).

Similarly to the data surrounding accused juveniles, the number of victims recorded had risen from 156 (2006) to 386 (2010). It is because the total number of juveniles is different in 2010 that comparison between the two years is difficult. It is difficult to conclude from the data whether the number of sex crime victims has actually increased since 2006 or the rise is due to including more data, i.e. the total number of victims and accusations being larger.

Two conclusions can be made from examining the existing research (such as that of Usta et al. and the Ministry of Justice surrounding sex offending within Lebanon).

Firstly, that sex offending occurs within Lebanon, this is despite the lack in reporting, and general knowledge.

Secondly, there are several factors that play a role in legalising actions that internationally would be considered sex offences. For example, women in Usta et al.'s study believed marital rape did not exist and that it was a husband's right. Such beliefs act as a barrier to the reporting and the criminalisation of marital rape. This study examines such barriers and builds on the existing research surrounding sex offending in Lebanon. Moreover, it explores how sex offenders are treated through the various stages of the criminal justice system.

Scope of the Research

The present study examines how the Lebanese criminal justice system deals with sex offending. It examines how sex offending is defined, and sex offenders' route through the criminal justice system. The study focuses on providing a detailed explanation of how the Lebanese criminal justice system functions and the human rights violations experienced by sex offenders moving through it. The present study therefore, examines how sex offenders are arrested, and progress through court and prison. Through examining these processes human rights violations were exposed. This study therefore also aims to examine factors promoting these human rights violations, and attempts to argue that such violations, as well as the way in which the criminal justice system itself functions, facilitates the punitive nature of Lebanon's system.

Research Aims and Questions

This study examined the following research questions with key stakeholders involved in the Lebanese criminal justice system. These included judges, lawyers, police officers and prison

staff. Sex offenders were also included in order to ensure that a complete picture of the criminal justice process was painted. The questions were not based on existing theories or a preconceived hypothesis; instead they were conceived to fill in the gaps in research and interest in the topic. The questions included:

- (1) How does the Lebanese criminal justice system function?
- (2) What are the opinions/attitudes of sex offenders and criminal justice professionals' towards the system?
- (3) What are criminal justice professionals' experiences of, and attitudes toward sex offenders?
- (4) How do criminal justice professionals think offending behaviour could be addressed within the criminal justice system?
- (5) What are sex offenders' experiences of, and attitudes towards the criminal justice system and its agents?
- (6) How do sex offenders think the criminal justice system could help them address their offending behaviour?
- (7) How does Lebanon fit in to the current global punitive climate?

Research Contribution

The original contribution of this thesis is fourfold.

- (1) At the most fundamental level, it contributes to the existing research surrounding sex offending, the Lebanese criminal justice system and human rights.
 - (a) The thematic analysis of interviews conducted with criminal justice agents and sex offenders, offers new insight into a neglected dimension of criminal justice.
 - (b) The study as a whole adds to existing international research surrounding sex offenders' experiences of and opinions towards criminal justice systems and it's professionals.
 - (c) This study as a whole contributes to existing research surrounding human rights in an international context.
- (2) This study focuses on detailing the hardships associated with researching a taboo topic in a Third World country. Several studies, especially within the criminological field, risk facing barriers in relation to access, such as the lack of enthusiasm to participate and

the political context (Noaks and Wincup, 2004:56). However, these barriers vary and in general are specific to the topic and the country being examined. The various barriers experienced are detailed within the methodology chapter of this thesis. For example, the role of patriarchy and a general lack of a systematic process and how they were overcome are examined in Chapter Four.

- (3) This study makes several references to international countries which include the United Kingdom, the United States of America, Russia, Jordan, Bangladesh and the Philippines. Examining sex offenders and their movement through the criminal justice system within Lebanon while looking into other countries has allowed for the formation of recommendations for changes. The references have allowed this study to take concepts from different countries, slightly alter them and recommend their implementation within Lebanon. These recommendations aim to encourage change in relation to the treatment of sex offenders within criminal justice systems, improve the way in which criminal justice systems function and the upholding of human rights. It is important to note however, that this study does not claim the superiority of one criminal justice system over another; instead the references were made to highlight either the implementation or lack of implementation of human rights. Moreover, reference to various countries was due to the lack in systematic research in neighbouring countries such as Syria and Jordan).
- (4) Finally this study has, as a whole, contributed to existing research as it has combined sociology, criminology, criminal justice and human rights. It therefore offers an insight into various aspects of these four domains and combines them in order to paint a significant picture of the trajectory of sex offenders within the Lebanese criminal justice system.

Chapter Outline

This thesis is organised into eight chapters, starting with three background chapters. To begin with, **Chapter One** discusses the literature surrounding popular punitiveness. It offers a definition for the current global trend of popular punitiveness, and explains the factors that aid in promoting such a trend. In particular, this chapter focuses on the media's role in providing the appropriate conditions that promoted the rise of popular punitiveness. However, other

factors such as politics and public pressure are also examined. Defining and explaining popular punitiveness allowed for the examination of its role in the criminalisation and monitoring of sex offenders. It aided in explaining how, within the current climate, there is a demand for the use of methods that are punitive in nature (such as sex offender registers). According to pre-existing research, the use of such methods is a result of the global popular punitive trend where punishment is the focus rather than human rights, rehabilitation and treatment.

This chapter tries to offer a background as well as an explanation as to why, globally, there is a focus on punishment. Moreover, the chapter aims to argue that this focus on popular punitiveness extends to Lebanon. Using the Lebanese media and primary findings of a pilot survey, it attempts to explain how Lebanon fits in with the global popular punitive framework. The Lebanese media in this section (rather than the global media) is therefore a primary focus in order to highlight punitiveness. The final section of this chapter examines the relationship between popular punitiveness and human rights. It argues that there is a clash between human rights and popular punitiveness, and for a country to be considered part of the popular punitive trend it entails the abandonment of human rights.

Chapter Two moves on to discuss the human rights framework of the study. The chapter engages first with a definition of human rights before moving on to consider the history of the development of human rights. It explores how human rights have developed throughout time in order to help understand how they have become such a significant part of criminal justice, social, and criminological dialogue. The chapter therefore examines the development of the Universal Declaration of Human Rights, the Economic and Social Council and touches upon various rights attributed to people.

The chapter moves on to examining how human rights are globally monitored, and enforced. This is done in order to highlight how countries vary in the levels of enforcement and monitoring of human rights and because of this variation, the extent of human rights violations vary according to countries. The chapter attempts to explain these variations through explaining factors that promote human rights violations. It then moves on to provide a specific examination into the historical and recent human rights developments within Lebanon. This acts as a backdrop to the next section where human rights violations within Lebanon are examined. Within this final section, the chapter examines the existing research surrounding

human rights violations at the various levels of the criminal justice system (i.e. police stations, courts, and prisons).

Chapter Three discusses the Lebanese criminal justice system. It examines the literature surrounding the history of the Lebanese criminal justice system in order to help understand the structure and the way in which the current criminal justice system functions. Once a detailed description of the system is provided, the chapter examines how sex offenders progress through the criminal justice system. This section begins with the laws and punishments attributed to sex offending. Once this is completed, the empirical and theoretical gaps are examined by providing what little information is present surrounding the arrest, trial, imprisonment and release of offenders. Examining the history of the criminal justice system and the trajectory of sex offenders through the current system, it became evident that culture and religion play a huge role. The last section of this chapter therefore examines the effects of culture and religion on criminal justice.

Chapter Four explains the methodological framework and questions that guided the collection and analysis of the data. It begins by introducing the research's aims and objectives along with the thematic research questions. It then moves on to engaging with the literature on qualitative research methods and to describing the methodological design of the research. The methodological design includes examining the sampling process for the qualitative interviews and the analysis methods chosen to analyse the data.

Before detailing the thematic analysis of the data, it was important to examine the steps undertaken to successfully conduct interviews. The chapter, therefore, examines the means by which access to participants was gained, how rapport was built with the participants and how issues relating to power and gender relations were dealt with. In addition to these, the chapter moved on to examine the ethical standard of this study, measures taken to ensure personal safety, as well as the challenges faced within prisons and police stations. These were essential to examine, as they are specific to conducting research within a Third World country like Lebanon. The final section of this chapter describes the final stage of the methodological design, the data analysis. It therefore provides a detailed explanation into how thematic analysis was conducted on the data collected.

Chapter Five presents the findings resulting from the thematic analysis of the data. As a whole it examines the findings in relation to the violations of sex offenders' human rights in Lebanon. This chapter therefore, discusses how within each of the various levels of the Lebanese criminal justice system the rights of sex offenders are violated. It begins by examining the process of the arrest and detention of sex offenders. The chapter then moves on to examining sex offenders in court, in prison and upon release. Several human rights violations are examined throughout the chapter. For example, the use of excessive force, torture, and degradation, as well as the use of forced confessions. In addition to examining the human rights violations found, this chapter also provides an insight into why such human rights violations occur within Lebanon. It therefore relies and builds on the pre-existing literature to offer explanations for the occurrence of violations. For example, this chapter examines the role police culture plays in promoting violations such as the use of torture and excessive force.

Chapter Six builds on Chapter Five and presents findings relating to the Lebanese criminal justice system. Although there is a lot of overlap between the two chapters, Chapter Six begins by examining whether Lebanon's criminal justice system is a punitive system. It therefore examines whether, due to the structure and the way the Lebanese criminal justice system functions as well as the human rights violations; one can lead to concluding that Lebanon is in fact punitive. It then examines the way in which the Lebanese criminal justice system is structured and functions rather than focusing on the human rights violations that occur within the system. The chapter therefore examines the process of arrest, detaining offenders, the structure and process of the court as well as the prisons. It adds to the findings in Chapter Five and the existing literature as it explains the criminal justice system in detail from the perspective of criminal justice agents and sex offenders. For example, it provides more detail surrounding the prison entry process, the lack of rehabilitation in prison; it describes prison life and what happens when sex offenders are released from prison.

Chapter Seven is the concluding chapter; it details the key findings of the study in relation to popular punitiveness, human rights in Lebanon and the Lebanese criminal justice system. It therefore sums up: (1) the reasons why Lebanon can be considered to be a part of the popular punitive trend, (2) the types of human rights violations experienced by sex offenders through the Lebanese criminal justice system and (3) the way in which the Lebanese criminal justice system functions. Once the findings have been discussed the chapter moves on to detail study's limitations and areas for future research. The limitations touched upon included a nation-wide

examination of police forces and prisons, the failure to consider participants' religious affiliation and the failure to include senior police officers and prison wardens. In relation to future research, this chapter highlights the need to further research the issue of sex offending in Lebanon, prisons as well as the causes of corruption. Examining such areas would allow for a wider understanding of the topic and will result in providing further recommendations to target issues of human rights abuses.

Chapter Eight provides recommendations for Lebanon as well as other countries that may face similar issues of human rights violations when dealing with sex offenders. It offers for example, recommendations surrounding how to combat issues of corruption and torture within countries where such issues are occurring at high levels. It further encourages changes in Lebanon in relation to for example, the level of training of police officers, the management of prisons and the separation of religion from criminal justice. The chapter therefore highlights some of the changes to be made surrounding the available resources, practices, organisation of the state, and human rights and civil liberties.

Chapter One

Popular Punitiveness

Introduction

The administration of criminal justice is constantly changing with new national and international policies aimed at reducing crime, and preventing future victimisation. Criminal justice trends have differed throughout time; some have focused on rehabilitation while others on the punishment of certain classes and/or people. For example, targeting ethnic minorities with harsher punishments and treatment. Within the twentieth century, there was a call to ease the harsh sentencing. “Penalties that appeared explicitly retributive or deliberately harsh were widely criticized as anachronisms that had no place within a ‘modern’ penal system” (Garland, 2001:8). This ‘lenient’ mentality did not last long, and within the last twenty years “we have seen the reappearance of ‘just deserts’ retribution as a generalized policy goal in the United States and the United Kingdom” (Garland, 2001:9). There has therefore, been a constant ‘going back and forth’ in relation to punitiveness and rehabilitation.

This chapter through the examination of popular punitiveness examines why we have once more returned to punitive measures. It begins by defining popular punitiveness, and describing what factors played and continue to play a role in its development. When examining the factors the focus will be on the role of the media, public fear and politics. Once the definition and the factors that gave rise to popular punitiveness are examined, the chapter moves on to provide an example of popular punitiveness through examining the sex offender register. This is important as a majority of the literature surrounding popular punitiveness provided sex offender legislations and monitoring as an example of its effects. This is due to the role popular punitiveness has had in influencing the legislation. Once this is completed, the chapter examines a global perspective of popular punitiveness. It provides examples of different countries and examines the rise of popular punitiveness within them. This paves the way to examining where and if Lebanon fits into this recent popular punitive climate.

Once Lebanon is examined, this chapter briefly examines popular punitiveness and human rights. Human rights are important to examine, as extended and/or harsher punishments and

control undoubtedly will have an effect on human rights. The chapter examines how, during this popular punitive trend, human rights ended up taking a back seat highlighting a conflict between criminal justice trends and human rights legislation.

Popular Punitiveness is significant within this study as it provides an insight into current criminal justice trends, and allows this study to contrast the Lebanese criminal justice system to other punitive systems. Moreover, it aids in examining how and whether Lebanon's criminal justice system fits within the popular punitive framework.

1.1 Defining Popular Punitiveness

One definition of popular punitiveness put forward by Pratt (2006:9) is a "label attached to politicians who devise punitive penal policies that seem to be in any way 'popular' with the public". This definition was put forward to describe a move in "the process of Government policy making, from originally being devised by experts following thorough research, to a less informed approach by which politicians use public moods and sentiments to inform policies guaranteeing electoral success at the cost of proven effectiveness" (Pratt, 2007:8). This definition only targets one aspect of popular punitiveness, as popular punitiveness is more complex than a ploy to achieve political success. It is because of its complexities that in order to understand and define popular punitiveness it is important to firstly examine what is meant by populism.

There is no clear definition of populism, and in many ways populism is seen to be controversial. One definition was, however, offered by Pratt (2006:9):

"Populism represents in various guises the moods, sentiments and voices of significant and distinct segments of the public: not public opinion in general, but instead those segments which feel that they have been ignored by governments, unlike more favoured but less deserving groups; those segments which feel they have been disenfranchised in some way or other by the trajectory of government policy which seems to benefit less worthy others but not them. It speaks specifically for this group who feel they have been 'left out' and is thus a reflection of their sense of alienation and dissatisfaction".

Populism targets sectors of the society, which they (the 'popular') believe have allowed this 'disenfranchisement' to occur. This therefore results in society speaking out against sectors such as the government for allowing and engineering "this marginalization and disenfranchisement of 'ordinary people' who have usually made no claims on the state other than to be allowed to live their lives as such" (Pratt, 2006:9). Sectors held responsible for this are not restricted to the government but can also include academics, the judiciary, and the media. These sectors receive criticism as they are considered to "be out of touch with the everyday realities and concerns of the public at large" (Pratt, 2006:10). Therefore, populism rather than being a means to achieve political popularity is used to give voice to the people which governments are thought to have previously ignored. This voice is then injected into "the democratic decision-making process" (De Raadt, Hollanders and Krouwel, 2004:3).

New politics have been developed in order to ensure the rise of populism, one of which is populist political parties while the second is a democracy initiative that sees the increased involvement of citizens. "Political parties that are specifically populist, campaigning for election and such matters as immigration and asylum seekers, while often also promising to reduce the size of the state by cutting down the privileges of tax-payer-funded bureaucrats and civil servants" (Pratt, 2006:10). Such political parties target issues that they believe the public are concerned about in order to gain more acceptance and in turn popularity. An example of parties which fall under this category include the Austrian Freedom Party in the Netherlands, Lijst Pim Fortuyn in Denmark, and the New Democracy in Sweden (Pratt, 2006:11).

The direct democracy initiative, on the other hand, includes such concepts as referenda and citizen-based ballots. The direct democracy initiative has meant a growth in support for "electoral systems based on proportional representation rather than 'first past the post' winner take all" (Pratt, 2006:11). This ensures that parliaments will be more representative of the general public, therefor ensuring a populist nature. Despite whether political parties are specifically populist, implement direct democracy initiatives and/or use proportional representation, it is clear that the goal of populism is to ensure a "move away from consensus politics to a politics that is more divisive and sectarian which is also more in tune with the ideas and expectations of the public at large" (Pratt, 2006:12). These aspects of populism mentioned above can be used to understand penal populism.

The common notion of penal populism is that victims and the law-abiding public are generally ignored while criminals and prisoners are considered to be favoured. These beliefs (i.e. favouritism of criminals over law-abiding citizens) paved the way for popular punitiveness as politicians took advantage of the existing beliefs that criminals were favoured and used it for electoral gain. This meant that politicians were less concerned about the effectiveness of policies and more concerned with displaying their pro-activity in relation to fighting crime. Officials therefore, “allowed the electoral advantage of a policy to take precedence over its penal effectiveness” (Robert, Stalans, Indermaur and Hough, 2003:5).

In general, there are two forms of penal populism firstly, benign populism and secondly a malign form of penal populism. Benign populism refers to politicians choosing the right crime policies for the wrong reason i.e. of gaining popularity. While the malign form of penal populism refers to the “promotion of policies which are electorally attractive, but unfair, ineffective, or at odds with a true reading of public opinion” (Roberts, Stalans, Indermaur and Hough, 2003:5). Although benign populism can be criticised, as the crime policies are not chosen due to their effectiveness but rather popularity, it is not as problematic as malign populism. Malign populism is problematic due to the risk of policies being unfair, ineffective or being at odds with the public. It can be argued that recently the trends within criminal justice fall under the malign populism as some experts claim they are disproportionate to the crimes, and are resulting in stricter monitoring and control of offenders and/or high risk people.

1.2 The Media and Popular Punitiveness

The media plays on public fears and insecurities about crime and criminals as well as the lack of and/or failure of governmental initiatives to combat crime and criminals. However, the media does not carry out such actions with the help of experts, instead it takes a more ‘tabloid’ like route. The ‘tabloid’ nature is evident when: (1) the society is portrayed as being violent; (2) when most stories revolve around violence and (3) most stories aim to ‘shock’ people. Relying on ‘tabloid’ interpretations “diminishes the influence of criminological or expert sources allowing individual or high profile cases (often accompanied by dramatic imagery and prose) to take precedence, which encourages a more authoritarian approach to crime and offending” (Monterosso, 2009:5). This authoritarian approach to crime and offending is a result of the ‘tabloid’ nature of crime reporting as well as the lack of public knowledge about crime, criminal justice systems and policies. Garland (2001:158) claims, “public knowledge and opinion about criminal justice are based upon collective representations rather than accurate information”.

The media largely forms collective representation, as it plays a big role in constructing public knowledge of crime and justice. “The public’s perception of victims, criminals, deviants and law enforcement officials is largely determined by their portrayal in the mass media” (Dowler, 2003:109). This implies that the media and its lack of using experts aids in the ‘miss-informing’ of the public surrounding crime and criminal justice policies.

“Western society is fascinated with crime and justice. From films, books, newspapers, magazines, television broadcasts, to everyday conversations, we are constantly engaging in crime” (Dowler, 2003:109). The media, whether fictional or factual, features a disproportionate level of violent crime. This over emphasis on crime has an adverse effect on the public’s fear of crime. Research has been conducted surrounding the effects of the media on the fear of crime and in turn how the public’s fears influence the criminal justice system. For example, Gerbner et al. (1980) found that heavy viewing of television violence leads to fear. According to Gerbner et al. (1980) “the viewers internalize these images and develop a “mean world view” or a “scary image of reality” (Cited in Dowler, 2003:110). This ‘scary image of reality’ occurs through the media portraying high levels of violence which increases the public’s concern about crime. The media therefore results in the public feeling more at risk believing that the crime rate is increasing, and is more prevalent. “People feel that crime is a growing problem. Crime is associated with young people on the streets, drug use and the perceived risk to strangers of random violence” (Hutton, 2005:250). This is surprising, especially in countries such as the United Kingdom (U.K.) where crime rates have been declining. There is therefore a misconception when it comes to victimization and crime rates within societies. Figure 1.1 shows the extent of this misconception, over a selected period, highlighting the gap between the public’s belief of crime rates and actual crime rates within the U.K.

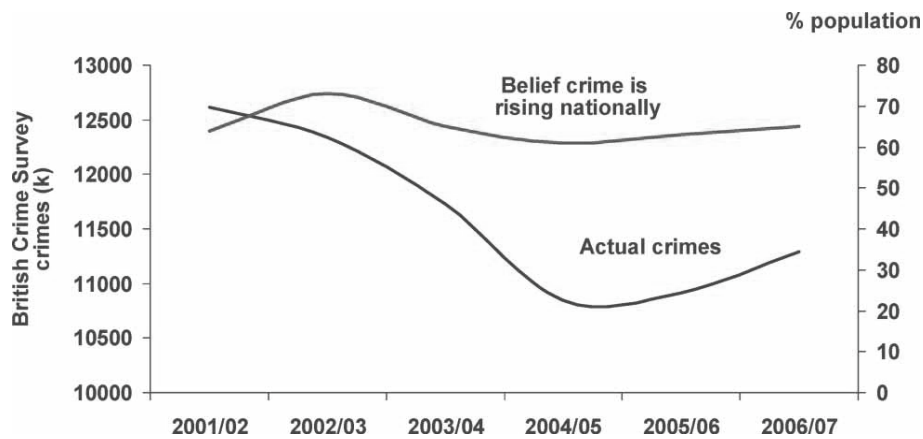


Figure 1.1 Gap between actual crime and the belief that crime is increasing (Nicholas, Kershaw and Walker, 2007).

Figure 1.1 highlights individuals over estimate their risk of victimisation, and although the research ends in 2007, this misconception is still prevalent. According to the 2013/14 survey 61% of adults believe that crime has increased over the last few years (ONS, 2015). This is due to the lack of faith in the criminal justice system, and the excessive ‘tabloid’ representation of crime within the media. “There is little faith in the capacity of criminal justice agencies to deal with crime, judges are too lenient and out of touch and prisons are too soft” (Hutton, 2005:250). The perceived leniency and the representation of crime in the media have resulted in a more punitive response to crime therefore aiding in the reinforcement of popular punitiveness.

Research conducted surrounding the link between media, fear of crime, and criminal justice policy found that media presentation of crime results in a demand by the public for more effective policing and more punitive responses to crime. This is because the public is more interested in a quick solution to crime that usually takes a punitive rather than a preventative stance. The over reporting and ‘the tabloid’ representation of crime results in moral panics and in turn a punitive stance. “Surette (1998) claims that the news media feature agents of crime control as negatively ineffective and incompetent which results in support for more police, more prisons, and more money for the criminal justice system” (Cited in Dowler, 2003:110). Moreover, “the news media’s emphasis appears to increase support for punitive policies” (Beale, 2006:402). It is unsurprising then that the public’s opinion (which is usually shaped by the media) “provides strong support for more punitive policies” (Beale, 2006:410).

Within the political sphere, crime is still highlighted and used as a political tool to gain leadership, as according to the public, crime is still a paramount concern (Duffy et al., 2008). Moreover, some politicians ignore or do not believe crime rates have decreased and hence still use crime as an electoral tool. There is a political-media cycle where parties exploit the public's fear of crime as part of a well-rehearsed 'tough on crime' rhetoric (Brake and Hale, 1992; Duffy et al., 2008). The media's relentless emphasis on crime increases the public's concern about crime and "makes it an important criteria in assessing political leaders" (Beale, 2006:402). This process leads to an increased support for punitive policies. Moreover, the excessive reporting of crime within the media results in politicians taking punitive stances as it leads them to believe that the public want them to do something more about crime. "Many people believe (with thanks to the media) that sentences are too lenient, jail is too mild and crime is on the rise" and so "many political leaders have learned to tap this reservoir of public concern by advocating ever more severe criminal justice policies" (Kugler, Funk, Braun, Gollwitzer, Kay and Darley, 2013:1074). This is not a new practice as many politicians throughout history have politically benefited from taking a tough on crime approach, through locking up as many people as possible.

In general the media usually attacks 'the other', "that is, the relentless attack of those groups seen as disadvantaged or undesirable in society" (Monterosso, 2009:17). The notion of otherness depicts criminals as a dangerous group often of certain ethnic or racial background. This means the media relies on "images, stereotypes and particular anxieties, rather than research" (Monterosso, 2009:17). By doing this, the media aids in creating a moral panic. "The term moral panic refers to periodic episodes of sharply increased public anxiety about the threat some group or condition poses to society's values and well being. Moral panics are characterized by exaggerated perceptions of the prevalence and importance of a phenomenon or group" (Beale, 2006:456).

This notion of otherness and a moral panic is especially true in the case of sex offenders. The media has aided in for example, "the construction of an unequivocal folk devil of the 'paedophile'; the unanimous moral condemnation of the threat posed to moral order by this evil; the support of activist pressure groups and accredited experts to validate the intractability of the problem; the call for and institution of innovatory legislative measures to deal with it" (Crutcher, 2002:527). Further examining the media's role in promoting popular punitiveness, the best example is the relatively recent registration and monitoring protocols of sex offenders.

1.3 The Case of Sex Offenders and Popular Punitiveness

Examining the history of sex offender registers; popular punitiveness played an important role in its development. The use of the register in the United Kingdom began on the 1st of September 1997 under the authority of the Home Office. The Home Office wanted a sex offender register, as they believed it would:

- (1) Help (the police) identify suspects once a crime had been committed
- (2) Help them to prevent such crimes
- (3) Act as a deterrent to potential re-offenders" (Cited in Thomas, 2008:228).

This register developed and changed over time as new functions were added to it. Some of these changes took place shortly after the register was formed. More recent changes included adding police cautions. This meant that now minor crimes were "suddenly serious enough to warrant registration and carried the implication that the offender was likely to do it again" (Thomas, 2008:229). Another change that occurred was the rise in fines for failing to register from 1,000 pounds to 5,000 pounds and an increase in the maximum custodial sentence from one month to six months. Furthermore, recent changes have included:

- (1)"All changes to be notified to the police within eight days rather than fourteen
- (2) All changes to be notified in person-not just initial reporting;
- (3) Verification to become an annual event, the onus to be on the offender to report rather than the police to visit
- (4) More offences to become designated offences leading to registration, for example, burglary with the intent to rape
- (5) Relevant offences committed abroad should lead to registration at home whether the offender was a UK or foreign national" (Thomas, 2008:232).

Moreover, child abductors, those accused of harassment and sending prohibited articles by post were also added onto the register. As a means to monitor those on the register "the use of polygraphs, medication to reduce sexual desires, use of satellite tracking to monitor high risk offenders, monitoring email addresses, keeping a record of passport numbers as well as bank account numbers and the provision of DNA samples (if they have not already done so) have also been added to the register" (Home Office, 2007:18). These changes have resulted in the

register being more punitive in nature “whilst at the same time making no demonstrable contribution to greater community safety” (Thomas, 2008:227).

People subjected to the register, some criminologists, and human rights advocates view the register as an invasion to the right of privacy. However, within the United States, “the courts have established that a sex offender’s privacy rights remain secondary to maintaining public safety” (Hynes, 2013:353). Moreover, the UK Home Office denies that the register is another punitive measure and instead claims it is a measure to protect the community from sex offenders. This has meant that there has been little resistance to the register and its practices. The little resistance against such practices as the register is due to the popular punitive climate that has taken hold. The popular punitive climate allows for the removal of basic civil liberties if there is reason to believe that the person poses a risk to society.

In addition to the changes to registers, within the United Kingdom, another obvious effect of popular punitiveness and its role on sex offender legislation is Sarah’s Law³. Sarah’s Law (based on Megan’s Law in the U.S.A.) was drafted largely due to a media campaign. This campaign began in 2000 after eight-year old Sarah Payne was murdered by a known paedophile. Roy Whiting (the murderer) had been previously placed on the sex offender register after serving four years in prison for the abduction and sexual assault of an eight-year-old girl. Despite this, Whiting was able to kidnap and murder Sarah Payne, highlighting the failures of the monitoring of sex offenders and the register.

As a result, Sarah’s law campaign called for:

- “(1) Greater public access to sex offender registers;
- (2) More stringent registration requirements;
- (3) Heavier punishment for failure to comply with these requirements;
- (4) Fuller court powers to prevent offenders from contacting victims;
- (5) More rigorous conditions of supervision of sex offenders following release on parole;
- (6) Greater powers of preventive detention” (Roberts, 2009:51).

³ Sarah’s law: allows “parents and guardians the ability to request information on specific individuals who may have unsupervised access to their children, such as new partners joining a single parent household” (BBC, 2007).

These demands were a result of the public panic surrounding sex offenders that occurred after the kidnapping and murder of Sarah Payne. The media reporting of sex offender crimes fuelled this public panic. The News of the World newspaper, for example, which drove the campaign for Sarah's law "published the names and photographs of fifty people it claimed had committed child sex offences and pledged to carry on until it had 'named and shamed' every paedophile in Britain" (BBC, 2007). This was carried out in an attempt to emotionally involve the public with its campaign. "By bringing the tragedy of Sarah Payne proximate to all parents and families appealing to the values of society (such as children, family values, and moral) the newspaper could create a very powerful message-join this campaign, to prevent this happening to your child" (Taylor, n.d.:11).

The News of the World further ignited the moral panic as it published an editorial claiming, "there was a convicted sex offender living within one mile of every Britain" (Hobbs and Hamerton, 2014:137). Because of the media's play on public's fears, the public widely supported the policy. This widespread support for legislation such as Sarah's Law was and continues to be a sign of the popular punitive climate we currently live within.

1.4 Popular Punitiveness: a Global Perspective

There are numerous reasons for the rise of popular punitiveness; two of those have already been touched upon, one when popular punitiveness was defined and the other reflects the media. Defining popular punitiveness it can be seen that one of the reasons for its rise was for political gain. Politicians would adopt popular punitive policies and demand harsher punishments for criminals as they believe this will enable them to win the elections or be re-elected. The use of crime policies in order to achieve political stance within the United Kingdom can be seen to date back to the era of Margaret Thatcher in the 1970s. Within the Conservative Manifesto of 1979, Margaret Thatcher claimed: "We also need better crime prevention measures and more flexible, more effective sentencing. For violent criminals and thugs really **tough** sentences are essential. But in other cases long prison terms are not always the best deterrent. So we want to see a **wider range of sentences** available to the courts..."(Thatcher, 1979).

Examining the Conservative Manifesto of 1979 it highlights the rise of punitive attitudes within politics as tougher penalties were taking shape. The Manifesto included giving magistrates the

power to make residential and secure care orders on juveniles, compulsory attendance at centres for hooligans, community service orders, and fines to punish offenders (Thatcher, 1979). The climate therefore gave rise to political parties 'competing' for who could be the toughest on crime. This 'competing' for toughest policies has been consistent throughout the U.K.'s political sphere and can be seen to have taken the forefront in 1997 with Labour's 'tough on crime' campaign. Labour's 'tough on crime' rhetoric was surprising due to the fact that it occurred during the initial phases of the crime decline. Despite this, the Labour party focused on what they believed to be the causes of crime and promoted harsher sentences, monitoring and surveillance.

"Tough on crime, tough on the causes of crime: reform of the criminal justice system; a comprehensive programme to deal with juvenile offending; tackling drug abuse; proper treatment of victims and witnesses; tougher penalties on violence or guns; a crackdown on those who make life hell in their local neighbourhoods through noise or disturbance and, for the first time, a nationwide crime prevention policy in which in each community, police, schools, business and local government plan together how to beat crime" (Blair, 1995).

Under this rhetoric, the Labour government put forward several measures such as ASBOs (Anti-Social Behaviour Orders), "threatened parents of wayward children with criminal convictions", mandatory ID cards, omnipresence of CCTV and collecting DNA from innocent people to add to a database (Tonry, 2010:388). Such measures were criticised by various criminal justice professionals, especially since they were put forward during the time when crime was on the decrease. Rod Morgan (former head of the Youth Justice Board of England and Wales) for example, criticised the 'tough on crime and tough on the causes of crime' as a means to "seeking short-term electoral gain rather than effectiveness in changing behaviour or creating a safer world" (Morgan, 2006:111). Garland (2001) further criticised Labour's policies as "largely expressive" this was because they were seen to mirror public anxieties and resentments rather than being anything effective and/or substantive.

This notion of 'tough on crime' is still visible within recent politics. David Cameron recently pledged an increase in the length of prison terms, along with other retributive measures. Cameron (2012) claimed:

“Committing a crime is always a choice. That’s why the primary, proper response to crime is not explanations or excuses; it is punishment-proportionate, meaningful punishment. And when a crime is serious enough, the only thinkable punishment is a long prison sentence. This is what victims-and society-deserve. Victims need to know the criminal will be held to account and dealt with. And the ‘society’ bit really matters: retribution is not a dirty word, it is important to society that revulsion we all feel against crime is properly recognised. But punishment is what offenders both deserve and need, too...”

The ‘tough on crime’ rhetoric is a form of popular punitiveness where policy focus is on the “long suffering and ill-served public rather than the opinion of experts and practitioners” (Matthews, 2005:176). This notion of the long suffering and ill-served public can be seen within David Cameron’s (2012) speech when he highlighted “victims need to know criminals will be held accountable and dealt with and the society bit really matters”. Referring to popular punitiveness David Cameron’s statement was ensuring the public (who have felt like their needs have been secondary to those of criminals) were now placed before those of the criminals.

The United Kingdom was not the only country that began to implement ‘tough on crime’ rhetoric, and instead popular punitiveness rose across several countries such as the United States (U.S.A), Canada and New Zealand. Within America punitive policies are harder to examine due to the fact that different states have different laws. However, in general, ‘tough on crime’ policies can be seen to date back to the end of the 1980s, even though they were mostly focused towards drug users. During the 1980s policies included the introduction of mandatory minimum sentences for drug offences. This began as a means for the Democrats to move away from their soft on crime reputation especially in relation to drug crime (Arit, 2014). This meant that similar to the U.K. politics within the U.S.A had become a competition as to which party is tougher on crime.

As a result of this competition, punitive policies developed throughout the years across the U.S.A came to include three-strike laws, increase in incarceration rates and the building of prisons as well as a variety of “shaming and stigmatizing measures” for example, Megan’s Law (Matthews, 2005:177). It is due to such measures that the United States has come to be seen as the most punitive country with New Zealand coming in second in the developed world

(Workman, 2008). The United States is seen to be the most punitive country in the world due to its high incarceration, implementation of 'tough on crime' laws even for non-violent crime.

The level of punitiveness is usually measured with incarceration rates. However, just because a country has not experienced a rise in incarceration rates does not mean it is not punitive in nature. For example, Canada compared to the United States, United Kingdom and New Zealand has relatively low incarceration rates. Despite this, harsher policies were introduced in Canada. Canada has introduced mandatory minimum sentences for offenders found guilty of any of ten serious violent crimes with a firearm, and increased maximum sanctions for certain offences (Doob, 2006). The reason why Canada is still considered to be punitive despite the low levels of incarceration is due to other factors, for example the previously mentioned harsher policies.

It can therefore be said that numerous factors resulted in the rise of popular punitiveness as in addition to media and politics; the rise in incarceration rates further reinforced the belief that crime is on the increase. In some cases penal policies "can be a consequence of an intentional attempt to exploit public anxiety about crime and public resentment toward offenders" (Roberts, Stalans, Indermaur and Hough, 2003:2). In other situations, popular punitive policies emerged out of a desire by policy makers to respond to public opinion "without having undertaken an adequate examination of the true nature of public views" (Roberts, Stalans, Indermaur and Hough, 2003:3).

Although it can be argued that there has been a general and global move towards popular punitiveness, it is important to note that there are cross-cultural differences in punitive attitudes. Differences can occur between countries that share the same economical and political background as well as the same amount of public fear. The differences may be attributed to whether countries give importance to experts over public opinion to shape penal policies, the country's justice history, the level of confidence in the criminal justice system, "the differing norms among policy elites", differing morals and the public's attitude (Kugler et al. 2013:1083). For example, according to Kugler et al. (2013:1077) "countries with a frontier history of individualistic independence and rough justice may have a cultural mind set that is sympathetic to vigilantism and especially punitive toward lawbreakers".

In relation to confidence in the criminal justice system, Hutton (2005:243) claims that the "public in Western jurisdictions support harsher punishments and have diminishing confidence

in the criminal courts”. The low levels of trust in the criminal justice system and the crime rates are therefore predictors of punitive attitudes.

Morality is also linked to popular punitivism, as punishment severity may be predicted by moral evaluation. “People punish what they find morally objectionable”, therefore levels of punishment may vary as what is considered to be morally wrong differs across cultures and countries (Kugler et al., 2013:1085). Even in situations where countries do agree that an act is morally wrong, the punishment may differ as one country may attribute a harsher punishment than the next. The attribution of different punishments to a similar morally wrong act is due to different views of society and the goals of punishment (Kugler et al., 2013). Moreover, the variation in punishments may be due to the fact that some countries, due to their culture, prefer to punish rather than rehabilitate. For example, Scandinavian countries tend to have rehabilitative attitudes towards punishments, while the U.S.A and the U.K. are more interested in retributive punishment.

1.5 Popular Punitiveness: The Case of Lebanon

Within Lebanon, there is no formal research surrounding public attitudes towards crime, nor the effects of politics, media and in turn popular punitiveness. This study’s pilot study provided an insight into such areas. The study’s pilot involved a questionnaire completed by fifty-three members of the public and although it is impossible to generalize the findings, some of the questions can be used to highlight a trend of popular punitiveness within Lebanon. The questionnaire was composed of three sections:

- (1) Basic Information
- (2) Knowledge of Sex Crimes, and
- (3) Attitudes Towards Sex Crimes.

The Basic Information section was composed of questions relating to gender and age. The ‘Knowledge of Sex Crimes’ section included questions surrounding the definition of sex crimes, and the participant’s knowledge and opinions surrounding punishments. This section was composed of open-ended questions, which allowed the participants to elaborate on their knowledge surrounding the topic. Conversely, the third section was made up of close-ended questions that registered responses on a series of four point likert scales; this was used to

examine participants' attitudes towards sex crimes. As was previously mentioned, although this pilot study was only meant to act as a pilot for the formulation of interview schedules, several questions used within the questionnaire can point to a popular punitive climate within Lebanon.

One such question included enquiring into participants' opinions surrounding the severity of punishments attributed to sex offenders. Out of a total of fifty-three participants, 69.2% believed punishments were not severe enough. As was previously mentioned, the demand for harsher sentencing is one of the main signs of popular punitiveness. Moreover, another sign of popular punitiveness is the enthusiasm to imprison offenders rather than considering other options. When participants were asked if they thought people who commit a sex crime should always go to prison, the majority (57.7%) agreed.

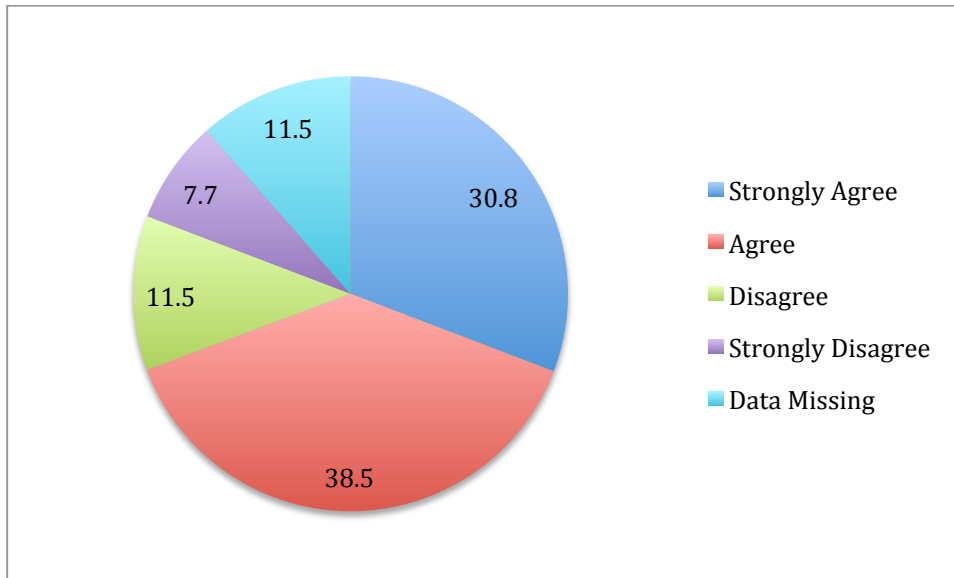
In relation to the monitoring of sex offenders upon release, this chapter has already examined how popular punitiveness gave rise to strengthening sex offender registers within countries such as the United Kingdom and the United States. Within Lebanon, in relation to monitoring sex offenders, this study (through the interviewing of sex offenders as well as several criminal justice professionals) has found there is currently no form of monitoring (See Chapters Five and Six). The lack of registers in Lebanon is due to several barriers such as the lack of professionals and funding rather than Lebanon being less punitive (See Chapter Six).

In relation to developing sex offender registers in Lebanon (another sign of popular punitiveness) participants were asked if they thought all sex offenders should have to sign a special register every year so the police know where they live. Out of the fifty-three participants the majority agreed (38.5% strongly agreed and 46.2% agreed). The punitive nature of the registers has already been touched upon; therefore, agreeing to the use of a register might point towards Lebanon being more punitive in nature. In addition to the register, when questionnaire participants were asked if they believed sex offenders should be subjected to electronic tagging whereby their movement is restricted to certain areas most participants (59.6%) agreed. Similar to registers, restrictions and electronic tagging are not available within Lebanon. However, the willingness of the participants to apply such measures is a sign of popular punitiveness within Lebanon. In general such restrictions are considered to be punitive as "when applied to new and prior offenders alike, residency restrictions might constitute a form of cruel and unusual punishment" (Niet and Jung, 2006:43). Moreover, electronic tagging

and restrictions are punitive as they take away the person's right to travel and right to live where one chooses.

This chapter has examined several factors that paved way to popular punitiveness; these factors included the lack of faith in the criminal justice system, the media and the use of popular punitiveness for political gain. As was previously mentioned, the lack of confidence in the criminal justice system has resulted in the rise of popular punitiveness with the public of several countries demanding harsher sentencing and more restrictions of criminals. There is no research surrounding the public's confidence in the Lebanese criminal justice system. Therefore, it is impossible to academically argue that the lack of confidence in the Lebanese criminal justice system has paved the way for the rise of popular punitiveness. However, this study's pilot questionnaire indicates a more general trend of the lack of confidence in the Lebanese criminal justice system. When participants were asked to strongly agree, agree, disagree or strongly disagree with the statement: "I don't have much confidence in how the police investigate sex crimes". Out of the fifty-three participants, 57.7% strongly agreed and 38.5% agreed with the statement.

The lack of faith in the criminal justice system is due to numerous aspects, some of which include the public's knowledge of corruption. The acknowledgment of corruption and the lack of faith in the criminal justice system result in an increase in the fear of crime. However, the lack of faith in the criminal justice system is not the only factor that results in fear of crime, as was previously mentioned media also plays a role. There is currently no research within Lebanon surrounding fear of crime and the media's role in promoting it. Therefore, it is difficult to conclude that there is a popular punitive climate resulting from a fear of crime within Lebanon. However, the pilot study interestingly highlighted that public fear does exist. This study's pilot study asked participants to measure this statement using a likert scale "I am afraid that I, or someone I know may become a victim of a sex crime". The results (displayed in Figure 1.2) show that the majority of participants strongly agreed (30.8%) and agreed (38.5%) with the statement.



(Figure 1.2 Likert scale percentage findings of the statement “I am afraid that I, or someone I know may become a victim of a sex crime”).

There is a further lack of research surrounding the effects of media and popular punitiveness within Lebanon. Examining the role of the media in promoting popular punitiveness, it can be concluded that the media within countries such as the United Kingdom and the United States play on the public’s fears. Within these countries, the media through the ‘tabloidization’ of the news helps create a popular punitive climate. Sarah’s Law was provided as an example to this connection between the media, public fear and popular punitiveness. The media reports crime in a ‘tabloid’ fashion, trying to promote as much shock as possible while also highlighting the failure of governments to prevent crime (See Section 1.2). “Media images have been found routinely to exaggerate both the levels of violent crime in society and the risk of being offended against” (Greer, 2011:45). This is especially true when reporting of sex offences. “Ditton and Duffy (1983), for example, in an examination of Scottish newspapers over a one month period, argue that ‘crimes involving violence and crimes involving sex together constituted 2.4% of real incidence yet 45.8% of newspaper coverage” (Cited in Greer, 2011:45). Watching the Lebanese news coverage and TV programs surrounding crime it is evident that some dramatization also exists. The reporting of crime within Lebanon, especially sex crime is infrequent due to the taboo associated with it. It is therefore very rare to report crime news, however when crime news reports do take place they tend to be dramatic in nature and highlight the failures of the Lebanese criminal justice system.

1.5.1 An Example of the Lebanese Media's Reporting of Sex Crimes

This section will provide details of the media's reporting of a sex crime for the purpose of highlighting the way in which the media dramatizes crime and emphasises the criminal justice system's failure. This is done through providing an example of the news coverage of a Child Sexual Abuse case within Lebanon.

In 2013 a mayor of a town was accused of sexually abusing little girls. The news coverage of the story included a brief video of the town where the perpetrator and victim resided, then moved to the use of silhouettes of random girls being attacked and forced to be quiet while a narration of the story occurred. Some of these images are shown below. Within the first image (Figure 1.3) the number nine is highlighted in red, the highlighting of the young victim's age may be seen as a ploy by the media to evoke a more emotive response of anger towards the perpetrator. All four images (Figures 1.3, 1.4, 1.5 and 1.6) are used as a means to evoke fear and convey the idea that this could happen to the viewers' children. Although all four images may evoke a climate of popular punitiveness, the final image (Figure 1.6) embodies several factors that have been previously identified as factors that pave way to popular punitiveness. The news report ended with this question that translates "Will the judiciary stand by the victims and administer the just punishment of the criminals?" (Figure 1.6). This questioning of the administration of justice may be seen as a reflection of the public's concerns as well as the media's ploy to get a reaction from the public.

As was previously mentioned, the public within Lebanon may not be very confident in the criminal justice system due to the high levels of corruption. This lack of confidence is not only highlighted at the end of the report through the use of the question (See image 1.6), it also was touched upon several times within the narration of the story. It was highlighted when the narrator of the news report stated: "the victim's angry elder brother (who remained anonymous) stated, "if the judges let him lose he is anyways dead dead" (Lebanese Broad Casting International News, 2013). It was highlighted yet again through a narration provided by the new agency: "the judge working on the case has assured that they will work justly in sentencing the accused after the newspapers issued a statement claiming the presiding judge is affiliated with the mayor and may drop all charges" (Lebanese Broad Casting International News, 2013). It is because of such reporting which highlights the failure of and lack of trust in

the Lebanese criminal justice system that may be argued that popular punitiveness exists within Lebanon.



Figure 1.3 Writing that translates to: “The mayor who is her mother’s uncle sexually abused her when she was nine years old” (Lebanese Broad Casting International, 2013).



Figure 1.4 from the same news report (Lebanese Broad Casting International News, 2013)



Figure 1.5 Writing translates to: “she remained silent until another victim filed a complaint against the mayor saying he sexually abused her” (Lebanese Broad Casting International News, 2013).



Figure 1.6 Translation: “Will the judiciary stand by the victims and administer the just punishment of the criminals?” (Lebanese Broad Casting International News, 2013).

As was previously mentioned, there is a general shift towards popular punitiveness however, there are cultural differences between countries that may act as a barrier to or promote popular punitiveness (See Section 1.4). These cultural differences may include a country’s

moral values that result in it being more or less punitive in nature. Moral values within Lebanon play a very important role within the criminal justice system, as many laws are not amended due to their link with morality. For example, within Lebanon homosexuality is still criminalised due to the fact that it is closely linked with morality and religion (See Chapter Three).

The criminalisation of such acts just because they are viewed to be morally wrong further highlights the punitive nature within Lebanon. Moreover, according to Pratt (2000), within 'modern' societies we no longer expect to see arbitrary punishment, public punishment or allow the community to administer or inflict punishment. Pratt claims that such things are found within the 'pre-modern countries'.

“We expect punishments which takes such forms in the prehistory of the modern world, or alternatively, as we look beyond the current parameters of modern society, it is to be found in non-modern forms of social organization: punishments by stoning and amputation, punishments of both a corporal and capital nature that are to be found for example, in Islamic and Third World societies; and the arbitrary and indeterminate nature of imprisonment and exile to the gulags in those countries that until very recently made up the Eastern block” (Pratt, 2000:3).

Lebanon's use of arbitrary detention and punishment, in addition to its position as a Third World country results in the argument that Lebanon is within the 'pre-modern' world and therefore punitive in nature.

1.6 Popular Punitiveness and Human Rights

Popular punitiveness can come in many forms; globally some examples include “(along with the media savvy titles such as ‘tough on crime’ and ‘do the crime, do the time’) increases in sentencing rates along with harsher penalties, zero tolerance policing, sex offender registers and intrusive security monitoring including closed circuit television” (Monterosso, 2009:15).

Other examples include rise in incarceration, the return of boot camps “chain gangs and capital punishment, ‘no frills’ prison, lengthy mandatory sentences, indefinite sentences, ‘adult time for adult crime’ sentences, three strikes and you’re in policies, ‘truth in sentencing’ and intrusive video surveillance” (Monterosso, 2009:16). In addition to these policies and practices, another characteristic of popular punitiveness is the “abandonment of procedural safeguards that serve to protect people from abuse in the legal environment” (Monterosso, 2009:16). The

safeguards in place are the legislations put forward to protect the human rights of all people including those accused of crimes and those imprisoned. These safeguards include the European Courts of Human Rights, and the Universal Declaration of Human Rights (See Chapter Two). The move away from the rights of prisoners and suspects ensures that the main focus is to punish, because there will be nothing to minimise the extent and type of punishment used. Therefore, it can be argued that there is more to popular punitiveness than the need/demand to be imprisoned. Popular punitiveness “also seeks to curtail or abandon altogether many longstanding criminal justice rights which are thought to favour criminals at the expense of law-abiding community members” (Pratt, 2006:29).

The clash between popular punitiveness and human rights began with the rise of popular punitiveness. In the United States, for example, this can be traced back to 1995 when several states began implementing more punitive measures. “Thirty states had abolished a variety of inmate privileges during the past year-such as weight lifting, family visits and furloughs to attend family funerals- and most other states had drastically restricted privileges” (Beale, 2006:407). This is despite the U.S. Constitution which is legislation for human rights in the U.S. The removal of such privileges is in violation of numerous articles and legislation on human rights, whether of prisoner and/or civilians.

Within Lebanon, despite human rights legislation, prisoners and suspects do not have many rights, in fact many of their human rights are violated (See Chapter Two). Prisoners and suspects are tortured, confined to over-crowded spaces and have minimal contact with family (See Chapters Two, Five and Six). The interviews conducted with criminal justice agents highlighted that within Lebanon, many people prefer severe punishment and some believe prisoners and suspects do not deserve human rights (See Chapters Five and Six). As this study will show, the focus on punishment and the lack of human rights within Lebanon is further evidence of the popular punitive climate within the country.

Conclusion

Popular punitiveness is a complex phenomenon and its rise and continuity is due to the interplay of politics, media, fear of crime, and the lack of faith in the criminal justice system. The over exposure of people to violent crime within the media and the lack of faith in the criminal justice system have resulted in the public fearing victimization. This fear of

victimisation has been used as a ploy within several governmental elections to ensure electoral success. All these factors interplay and create a general feeling that the public demand more punitive methods to deal with crime, therefore resulting in a notion of popular punitiveness.

This notion of popular punitiveness has spread across the globe, although as this chapter highlighted, there are differences across different cultures and countries. These differences include differences in policies and so differences in the level of punitiveness. For example, Sarah's Law (U.K.) is different to its U.S.A equivalent Megan's Law, as it does not provide public access to the sex offender registers. Such differences exist despite similar cultures and economies due to factors such as level of fear of crime, and politics.

Within Lebanon, little is known about crime, criminal justice, fear of crime, and the role of media and politics in crime control. This study highlights the importance of conducting future research surrounding the public's attitudes towards crime, their opinion surrounding the Lebanese criminal justice system, and the effects of media and politics on crime control. This chapter through exploring existing literature surrounding popular punitiveness, and the trajectory of sex offenders through the Lebanese criminal justice system has attempted to place Lebanon within the global climate of popular punitiveness. Difficulties arose due to the lack of systematic research and in order to overcome this, the study's pilot study was used as an attempt to indicate a general trend within Lebanon. Using the pilot study and examining the way in which media portrays crime it is evident that Lebanon does in fact fit into the current popular punitive climate. This is due largely to the existing fear of crime, demand for harsher punishments, and the lack of importance placed on human rights. The lack of importance placed on human rights is examined within the next chapter (Chapter Two) where human rights within Lebanon are uncovered.

Chapter Two

Human Rights in Lebanon

Introduction

This chapter builds on Chapter One's argument that Lebanon is a punitive country through examining human rights and their violations within Lebanon. As Chapter One has stated, one of the indicators of popular punitiveness is the abandonment of safeguards protecting human rights. This Chapter highlights how, despite Lebanon being a founding member of the Universal Declaration of Human Rights, and signing several legislations and constitutions, human rights have taken a back seat.

Before highlighting the various human rights violations occurring within Lebanon, it is important for this chapter to provide a background into human rights. This chapter therefore begins with examining what is meant by human rights. It is important to define human rights to understand whose rights are protected and what these rights entail. Once human rights are defined, an examination into the history of human rights is undertaken. This is important in order to understand how human rights have evolved to play a vital role within communities, societies and countries. It also allows for the further understanding of what human rights entail and the general aim of human rights.

Understanding human rights is important to enable this study to understand when a violation occurs, and why specific actions are considered to be violations. The chapter's following sections will then examine how human rights are monitored and enforced before explaining the factors that encourage human rights violations. These sections will provide a backdrop to the following sections that examine human rights within Lebanon. The following sections will therefore explain Lebanon's history of human rights before moving on to the final section that explores the existing literature surrounding human rights violations within the Lebanese criminal justice system.

2.1 What are Human Rights?

“Human rights- the rights of man- are literally the rights that one has because one is human” (Donnelly, 2013:7). What this implies is that all humans have the same rights, as they are indisputable. “One cannot stop being human, no matter how badly one behaves or how barbarously one is treated” (Donnelly, 2013:10). This therefore implies that even the most vicious criminals deserve rights, as they are still human. When examining human rights, the Universal Declaration of Human Rights (1946) is usually the main legislation referred to. The Universal Declaration of Human Rights however, is not the only internationally recognised legislation. Other legislations include (but are not restricted to) the International Bill of Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights. In general, all legislations define human rights as: “a) the minimum set of goods, services, opportunities, and protections that are widely recognized today as essential prerequisites for a life of dignity, and b) a particular set of practices to realise those goods, services, opportunities and protections” (Donnelly, 2013:17).

Rights can therefore include recognizing:

“Personal rights to life, nationality, recognition before the law, protection against torture and protection against discrimination on such bases as race and sex; legal rights to a fair trial, the presumption of innocence and protections against ex-post facto laws, arbitrary arrest, detention or exile and arbitrary interference with one’s family, home or reputation; a comparable variety of civil liberties and political rights; subsistence rights to food and health care; economic rights to work, rest and leisure and social security; social rights to education and protection of the family; and the right to participate in the cultural life of the community” (Donnelly, 2013:2).

2.2 Global History of Human Rights

Scholars such as Micheline R. Ishay claim that human rights can be traced back to early civilisations. However, according to Jack Donnelly’s (2013) definition of human rights (mentioned above) the argument that human rights date back to early civilisations is rejected. This is rejected due to the fact that early civilisations granted rights according to citizenship, or allies and not due to their human status. According to Donnelly, early civilizations did not have human rights,

“if by human rights we mean equal and inalienable rights that all beings have simply because they are human and that they may exercise against their own state and society, and if by human

beings we mean if not nearly all members of Homo sapiens, then at least some substantial segment of the species, including prominently many outside of one's own social or cultural group" (2013:76).

Human rights as we know them today, do not date further back than the 1940s. However, one cannot deny that earlier civilizations and events pre-1940s aided in the development of rights. One cannot therefore deny that the emergence of the English Bill of Rights (1689), French Declaration on the Rights of Man and Citizen (1789), and the U.S. Constitution and Bill of Rights (1791) all aided in paving the way to human rights. However, the reason why these legislations are not considered (by scholars such as Donnelly) to be part of 'modern' human rights is because they were attributed to certain people and excluded other groups. For example, rights for women, ethnic and religious minorities, as well as other economic and political groups were all excluded. It was not until the mid 19th to early 20th century that rights were given to these previously ignored groups. These rights included political rights, "rights of civilians and soldiers in times of war", as well as women's rights (Haas, 2008:6). In addition to these rights, the League of Nations further aided in the development of rights within several other countries.

2.2.1 The League of Nations

The League of Nations was developed in the aftermath of World War I in order to establish and maintain world peace. It therefore acted as a mediator, tasked with trying to ensure that any problems between nations or states were resolved through peaceful means. It was further tasked with dividing the conquered territories according to the allied powers. This division fell under Article 22 of the League of Nations that established the Mandates System of the League. Under this system, the mandates "agreed with the League to administer the territories pursuant to principle that the well-being and development of the native peoples form a sacred trust of civilization" (Buergenthal, Shelton and Stewart, 2009:8). This implied that although 'native people' were under the mandate they had to be treated a certain way. The wording of such statements by the League of Nations highlighted the fact that people were still given rights according to their class, status, and nationality and not for the simple reason that they are human. It is for this reason that the rights distributed through the League of Nations cannot be labelled as human rights according to Donnelly's definition.

When examining the League's social and humanitarian activities, the League of Nations was known to provide refugees with financial support, initiate human and drug trafficking combat strategies, and provide loans to bankrupt countries (Henig, 1973). Moreover, the League formed a sub-committee, which held meetings to "consider various complaints made on behalf of Minorities" (Henig, 1973:158). Other advancements included compensation for industrial accidents, compensation for occupational diseases, and the development of social insurance (Henig, 1973:159). All of which can be seen to contribute to the rise of individual rights. However, as was previously mentioned, unlike the post Universal Declaration of Human Rights era, rights were not yet seen to be the rights that one has because one is human (Donnelly, 2013). Instead rights were seen, by the League of Nations as a means to promote human happiness therefore "indirectly contributing to the preservation of international peace" (Henig, 1973:153).

The fall of the League of Nations can be attributed to numerous factors. The first of which is due to nations preferring "regional to global security arrangements" (Northedge, 1986:256). They therefore "wanted the League to confine itself to functional rather than security activities" (Northedge, 1986:256). Second, numerous countries had either withdrawn from or refused to participate in the League. These countries included Germany, Japan, the United States and Italy (Northedge, 1986). Third, the League had failed at putting an end to Mussolini; therefore highlighting its incompetence. All these factors threatened the League of Nations goals of keeping the peace; and its failure was most evident with the break out of World War II in 1939. Once World War II ended in 1945, there was a need for a body similar to the League of Nations. The establishment of the United Nations therefore occurred. "Its establishment was desired and approved by the whole community of civilized peoples", unlike the final stages of the League where numerous countries had withdrawn (Walters, 1952:812).

2.2.2 The Rise of the United Nations

"The United Nations is composed of six major bodies: the General Assembly, the Secretariat, the Security Council, the International Court of Justice, the Trusteeship Council and the Economic and Social Council" (Human Rights Education Associates, 2011). Although the United Nations as a whole is of considerable interest, for the purpose of this study, only one aspect of the United Nations will be examined and that is the Economic and Social Council (ECOSOC). The ECOSOC is

important due to the role it played in the development of the Universal Declaration of Human Rights.

As was previously mentioned, the idea of rights attributed to a person's human status began to emerge before the end of the Second World War. In fact, numerous scholars and affluent people such as George Jellinek and Émile Durkheim published books surrounding the idea of human rights in the late nineteenth century (i.e. prior to World War One). According to Joas (2013:183) the First World War repressed the discourse of rights, "but it grew again after the Second World War". In fact, it was towards the end of the war that numerous influential people began demanding international as well as national human rights legislations. For example, in 1941 President Franklin Roosevelt "called for the protection of four essential freedoms: freedom of speech and expression, the freedom of worship, the freedom from want and the freedom from fear" (Morsink, 1999:1). Shortly after, in 1943 the "American Institute of Law produced its own version of an International Bill of Rights" (Morsink, 1999:1). Numerous countries and committees across the world followed suit and also began issuing their own version of rights. Therefore, when it was time for the United Nations to draft the Universal Declaration of Human Rights, several different Bills were used as inspiration. For example, the American Jewish Committee's Bill contributed to the "drafting of Article 26 on education and of 29 paragraph 3 on the prohibition to exercise the rights of the Declaration contrary to the purposes of the U.N." (Morsink, 1999:2).

Human rights were first mentioned in the United Nations Charter coined on the 24th of October 1945, and it was the first time that rights were attributed to the human status. Examining the Charter's Preamble, the main influences for the United Nations demands for rights were the previous World War I and World War II. The United Nations Preamble stated:

"We the peoples of the United Nations determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small and to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and to promote social progress and better standards of life in larger freedom..." (United Nations, 1945).

Within the Charter, Article 62 gave the Economic and Social Council the task of promoting these human rights. “The Economic and Social Council (ECOSOC) may make recommendations for the purpose of promoting respect for and observance of human rights and fundamental freedoms for all” (United Nations, 1945). The ECOSOC therefore created the Human Rights Commission, which was tasked with the setting up and drafting of the Universal Declaration of Human Rights.

Initially a Nuclear Committee was formed which examined several Bill of Rights, however this committee did not feel it was able to draft the Declaration. The Nuclear Committee therefore only conducted preparatory work. This included gathering information from numerous Non-Governmental Organisations on the subject of human rights and freedoms as well as recommending people for the actual Committee (Morsink, 1999:4). The Nuclear Committee initially recommended eighteen non-governmental people from various countries, however this was denied by the ECOSOC. The ECOSOC insisted the eighteen members be from official representatives of the states and that they should speak for their own countries rather than being elected by other countries (Morsink, 1999:4). The members therefore, came from various political, cultural and religious backgrounds. The most prominent members included: Eleanor Roosevelt, Rene Cassin, Charles Malik, Peng-Chung Chang, and John Humphrey.

Eleanor Roosevelt who was the widow of American President Franklin D. Roosevelt, chaired the Universal Declaration of Human Rights (UDHR) Committee. René Cassin a French jurist and judge composed the first draft of the Declaration, while Charles Malik was the Committee Rapporteur. Charles Malik, a Lebanese, played a key role in the “debates surrounding key provisions of the Declaration and explained and refined some of its basic conceptual issues” (The United Nations, 2008). Vice-Chairman Peng-Chung Chang of China, was able to explain the Chinese concept of human rights and played a key role in negotiating stalemates (The United Nations, 2008). Peng-Chung Chang therefore was a key player in ensuring that the Declaration did not only involve Western ideas of rights. John Humphrey, a Canadian lawyer, gathered the documents needed which informed the Commission’s work. Through the “agreement on new areas of common ground, despite the plurality of competing value systems”, these eighteen members composed the draft of the Universal Declaration of Human Rights (Joas, 2013:174). This Declaration was then taken to the Commission on Human Rights in Geneva. “Over fifty Member States” participated in the final drafting of the Declaration, which was finally devised by the General Assembly in 1948 (The United Nations, 2014).

2.2.3 The Universal Declaration of Human Rights

Under the Universal Declaration of Human Rights, there are thirty Articles, which detail various rights and prohibitions. Some of these rights include but are not restricted to:

- Right to life liberty and security
- The right to be recognized everywhere as a person before the law
- The right to a fair trial
- The right to be presumed innocent until proven guilty
- The right to freedom of movement and residence

Prohibitions include but are not restricted to:

- The prohibition of discrimination
- The prohibition of slavery
- The prohibition of torture
- The prohibition of arbitrary arrest detention or exile
- The prohibition of arbitrary interference with a person's privacy
- The prohibition of arbitrarily depriving a person of his/her nationality
- The prohibition of forced marriages

The Universal Declaration of Human Rights was important for two reasons, the first being the fact that it was the first internationally recognised legislation surrounding human rights and second it paved the way to numerous other declarations, covenants and human rights law. Although all human rights legislation is interlinked, there are some differences between the different covenants and legislations. For example, the International Covenant on Civil and Political rights gave the people the right to vote, a right not previously mentioned within the Universal Declaration of Human Rights.

Progression within the field of rights is constant and since its formation sixty new treaties and declarations in addition to covenants have been formed. Some of the new treaties included: the Convention on the Elimination of All Form of Discrimination Against Women (1979), Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), and the Convention on the Rights of the Child (1989). In addition to these, numerous bodies have

also risen as part of the United Nations. These bodies included but are not restricted to: the Committee on the Elimination of Racial Discrimination, the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee against Torture, the Committee on the Elimination of Discrimination against Women, and the Committee on the Rights of the Child. The committees were used to help regulate human rights across the various countries, and provided people with the opportunity to report abuses. In addition to the formation of conventions, treaties, declarations and committees, human rights evolved and today, are “defined with far more detail and specificity” (Office of the High Commissioner for Human Rights, 2001:8). Today, there is this notion of human rights law that ensures the protection of vulnerable individuals and groups for example, lesbian, gay, bisexual and transgendered people.

Human rights further aided in the development of sexual rights. A person’s sexual rights are closely linked to rights stated within the Universal Declaration, i.e. the right to health, the right to privacy and the prohibition of discrimination. However, to ensure further protection a list of specific rights have been provided. “They include the right of all persons, free of coercion, discrimination and violence, to:

- “The highest attainable standard of sexual health, including access to sexual and reproductive health care services;
- Seek, receive and impart information related to sexuality;
- Sexuality education;
- Respect for bodily integrity;
- Choose their partner;
- Decide to be sexually active or not;
- Consensual sexual relations;
- Consensual marriage;
- Decide whether or not, and when, to have children; and
- Pursue a satisfying, safe and pleasurable sexual life” (World Health Organisation, 2016).

2.2.4 The Importance of Human Rights

Human rights are important for several reasons. According to Advocates for Human Rights these reasons include:

“Human rights give people the freedom to choose how they live, how they express themselves and what kind of government they want to support. Human Rights also guarantee people the means necessary to satisfy their basic needs, such as food, housing and education, so they can take full advantage of all opportunities. Finally, by guaranteeing life, liberty, equality and security, human rights protect people against abuse by those who are more powerful” (The Advocates for Human Rights, n.d.).

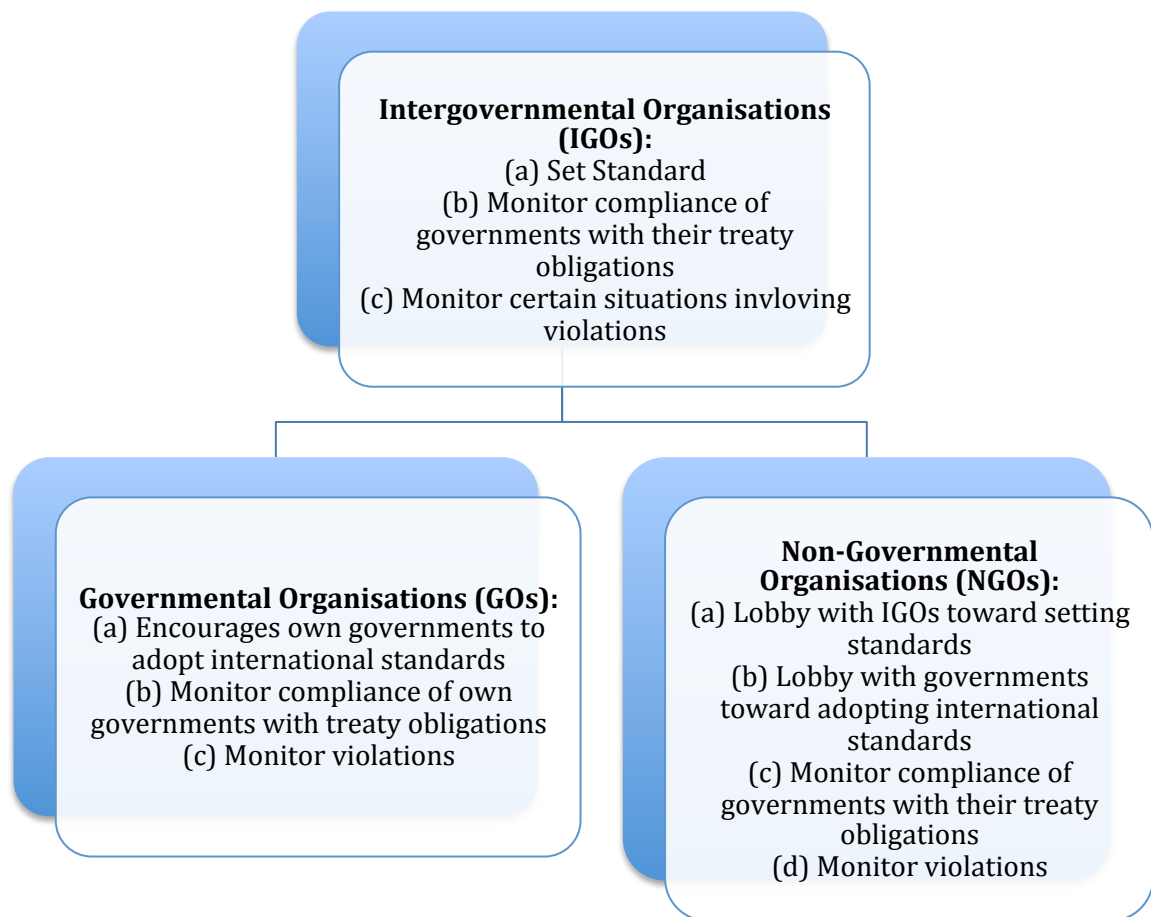
It is because of these ideas of equality, protection, and dignity that the international community places importance on human rights, and tries to enforce them globally. Since the development of the Universal Declaration of Human Rights, countries around the world have progressed to simulate human rights legislation within their legal systems. For example, this occurred in the United Kingdom when the Human Rights Act was passed in 1998. Alongside the Act, the adoption of human rights legislation in prisons and other aspects of the criminal justice system became paramount. It is not enough however to just formulate national human rights legislations, as having such legislations does not necessary mean a country abides by them. Lebanon for example, has signed numerous international conventions as well as formulated its own human rights however, as this chapter and the study as a whole emphasises, violations still occur. In order to ensure that human rights are upheld and applied within domestic regions according to universal standards, monitoring is essential. Several monitoring techniques and monitoring bodies are put in place, one such technique is when the Universal Declaration of Human Rights sends representatives to various countries to report on the upkeep of human rights and any violations.

2.3 Monitoring Human Rights

There are two kinds of monitoring; these include situation and case monitoring. Situation monitoring includes focusing on a specific situation and “producing reports that describe and analyse the occurrence of violations in a country” (Guzman and Verstappen, 2003:12). Situation monitoring also includes assessment of any progress the country has made in regards to human rights legislation and applying human rights within institutions. “The different forms of situation monitoring are useful for the purpose of monitoring government compliance with treaty obligations or for domestic monitoring purposes” (Guzman and Verstappen, 2003:12). Case monitoring on the other hand is victim-orientated, and works on behalf of an individual victim or group of victims (Guzman and Verstappen, 2003). The duty to monitor situations and cases are

the responsibility of several bodies. These bodies include, but are not restricted to, international as well as national Non-Governmental Organisations, Human Rights Watch, the United Nations High Commissioner of Human Rights and other humanitarian groups. A hierarchy exists amongst the different types of monitoring bodies as well as a dynamic interplay of Inter-Governmental, Governmental and Non- Governmental Organisations. Figure 2.1 details the different types of bodies i.e. Intergovernmental Organisations, Governmental Organisations, and Non-Governmental Organisations as well as their duties.

Figure 2.1: The Monitoring Bodies and Their Functions



(Guzman and Verstappen, 2003:16).

Regardless of the body conducting the monitoring, the process is generally the same and includes: “gathering information about incidents, observing events (elections, trials,

demonstrations, etc.), visiting sites such as places of detention and refugee camps, discussions with government authorities to obtain information and to pursue remedies and other immediate follow ups” (Office of the High Commissioner for Human Rights, 2001:9). It therefore requires the collecting of facts and information surrounding alleged human rights violations, as well as on-site presence of observing events such as trials, elections and demonstrations. This process is repeated several times over a protracted period of time and is documented. It is important to repeat the process as “data compiled over a period of time can be analysed so as to get a fuller picture of the issue at stake” (Guzman and Verstappen, 2003:13).

The aim of monitoring is to acknowledge violations within a situation or a case and to try and prevent such violations from occurring. According to the Office of the High Commissioner for Human Rights (2001:10) human rights violations include:

“Governmental transgressions of the right guaranteed by national, regional, and international human rights law and acts and omissions directly attributable to the State involving the failure to implement legal obligations derived from human rights standards. Violations occur when a law, policy or practice deliberately contravenes or ignores obligations held by the State concerned or when the State fails to achieve a required standard of conduct or result. Additional violations occur when a State withdraws or removes existing human rights protections”.

2.4 Enforcing Human Rights

Embedding international human rights law within a country’s national law occurs through a ‘transnational legal process’. The ‘transnational legal process’ has three phases; “the institutional *interaction* whereby global norms of international human rights law are debated *interpreted* and ultimately *internalized* by domestic legal systems” (Koh, 1999:1399). This process is sometimes, but not always successful as a result of a government’s incentives to comply. There is an “institutional gap between human rights treaties and government’s incentives to comply” (Hafner-Burton and Tsutsui, 2005:1385). This is due to numerous reasons, one of which is the difficulty for international bodies to legally prosecute domestic violations. This does not mean that it is impossible to enforce human rights, but that there are various ways of attempting to do so.

Similar to the monitoring of human rights the enforcement of human rights relies on Intergovernmental Organisations (IGOs), Governmental Organisations (GO) and Non-Governmental Organisations (NGO) and actors. In addition to these (the IGOs, the GOs and the NGOs), the civil society plays a major role. "In effect, civil society provides the enforcement mechanism that international human rights treaties lack and can often pressure increasingly vulnerable governments toward compliance" (Hafner-Burton and Tsutsui, 2005:1385).

In general governments are encouraged to enforce human rights through either national or through the help of the international community. "The global human rights regime relies on national implementation of internationally recognized human rights" (Donnelly, 2007:283). Domestically, people responsible of ensuring the enforcement of human rights include for example lawyers and legal advisers. "In-house lawyers and legal advisers acquire institutional mandates to ensure that the government's policies conform to international legal standards that have become imbedded in domestic law" (Koh, 2006:313). In some cases, for example when countries are committing genocide, crimes against humanity, and perhaps torture and arbitrary execution, the international community might step in. The international community is not authorised to "implement or enforce human rights within another state's sovereign jurisdiction" (Donnelly, 2007:283). Therefore, the international community usually resorts to using three instruments. These include: *sanctioning*, *shaming* and *co-optation*. Sanctioning refers to denying certain groups or in some cases countries the "desired foreign goods and services, markets or capital" (Moravcsik, 1995:160). By denying access to such goods, if the sanctioning is successful, then countries may start to enforce and/or protect human rights. The shift towards enforcing human rights as a result of sanctioning happens due to the need to protect the interests and prosperity of the group or government.

Shaming "seeks to enforce individual human rights and promote democracy by creating an international and domestic climate of opinion critical of national practices" (Moravcsik, 1995:161). Through shaming, information detailing the practices and norms of the country violating rights become public knowledge. Shaming therefore results in the enforcement of human rights as, the group and/or country would want to avoid "tarnishing their reputation and legitimacy at home or abroad" (Moravcsik, 1995:161). Shaming is common throughout several of the reports surrounding human rights violations published by Human Rights Watch and other bodies.

Finally, co-optation occurs when the country in question has a close link with international political institutions. It is the “international political institutions and organized pressure from international groups” that results in the direct influence of the semi-autonomous political elites (Moravcsik, 1995:161). The success of enforcing human rights using sanctions, shaming and co-optation depends on the international community’s enforcement of the three as well as whether the country in question places any importance on its image and international relations.

In addition to national lawyers and legal advisers as well as international pressure and sanctions, Koh claims individuals also play a role in enforcing human rights. According to Koh:

“if my question is how is international human rights law enforced? My answer is simple. International human rights law is enforced not just by nation-states, not just by governmental officials, not just by world historical figures, but by people like us, by people with the courage and commitment to bring international human rights law home through a transnational legal process of interaction, interpretation and internalization” (Koh, 2006:314).

2.4.1 Countries and their Enforcement of Human Rights

Despite attempts by the international community and the numerous legislations, not all countries enforce human rights. Moreover, even when human rights are enforced they are not enforced equally within all countries across the world. It is for this reason that the universality of human rights can be and is often questioned. Figure 2.2 (below) portrays the results of a global risk analysis surrounding human rights. “The Atlas analysis human rights risk trends in 197 countries across 31 different violations and provides the most accurate picture available of the state of global human rights” (Reliefweb, 2014). The countries colored in red are countries that exhibit an extreme risk of violations, orange countries are high-risk countries, and yellow represents medium risk while green countries are considered to be low risk. The grey countries represent countries that have no data surrounding violations. According to the Human Rights Risk Index 2014, the top ten countries with extreme human rights violations include: (1) Syria (2) Sudan (3) DR Congo (4) Pakistan (5) Somalia (6) Afghanistan (7) Iraq (8) Myanmar (9) Yemen (10) Nigeria (Reliefweb, 2014).

Figure 2.2: The Atlas Analysis of Human Rights Risk in 197 Countries

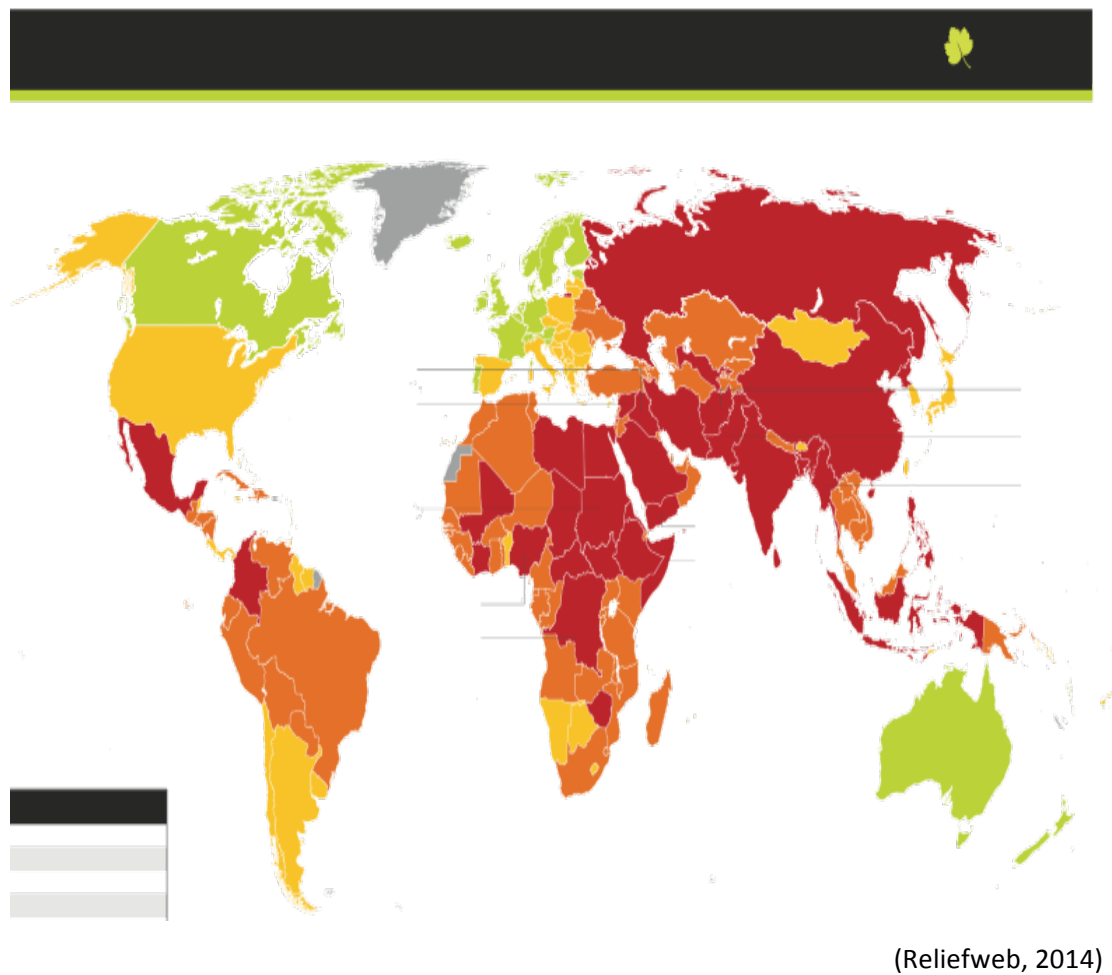


Figure 2.2 Key:

Red	Extreme risk of human rights violations
Orange	High risk of human rights violations
Yellow	Medium risk of human rights violations
Green	Low risk of human rights violations
Grey	No available data

Examining the map provided, it is evident that even democratic, independent and First World

countries that have ratified numerous human rights legislations experience human rights violations. However, it is no surprise that the top ten countries with extreme human rights violations are either war-torn and/or developing countries. The global existence of human rights violations is surprising seeing as “the average state has ratified a steadily increasing percentage of available human rights treaties, creating a world space characterized by the rapid and nearly universal acceptance of international human rights law” (Hafner-Burton, and Tsutsui, 2005:1374).

There are several reasons why countries apply human rights to different extents as well as why violations occur within countries. In relation to why countries apply human rights to different extents, these reasons include cultural and political differences, as well as general skepticism of human rights. Although some countries share similar cultures and traditions, (for example Lebanon and Syria), some scholars such as Donnelly and Alston have argued that the universality of human rights is impossible. According to such scholars universality of human rights is impossible due to variation in attitudes, culture and politics. “Other societies may have (similar or different) attitudes toward issues that we consider today to be matters of human rights. But without a widely understood concept of human rights endorsed or advocated by some important segment of that society, it is hard to imagine that they could have any attitude toward human rights” (Donnelly, 2007:285). Donnelly’s earlier work on cultural relativism also acknowledged the role of culture in preventing the universality of human rights. According to cultural relativism “culture is the sole source of the validity of a moral right or rule” (Donnelly, 1984:400). Alston (1994) provided a good example of the effects of culture and its role in the enforcement of human rights when he examined Children’s Rights. According to Alston (1994:6):

“In some highly industrialized countries, the child’s best interests are ‘obviously’ best served by policies that emphasize autonomy and individuality to the greatest possible extent. In more traditional societies, the links to family and the local community might be considered to be of paramount importance and the principle that ‘the best interests of the child’ shall prevail will therefore be interpreted as requiring the sublimation of the individual child’s preferences to the interests of the family or even the extended family”.

The example provided above illustrates how in some cases a country’s culture can be at odds with rights and therefore result in the partial implementation of human rights. The United Nations has attempted to and continues to combat cultural relativism. The United Nations argue

“Universal values of human rights should serve as a bridge among all cultures and should not be subservient to social cultural or religious norms” (2010). This therefore implies the notion that human rights are paramount despite the fact that they might be at odds with a country’s culture. Human rights are important because they limit the power of the state over the people therefore offering people protection (United Nations, 2011).

In addition to cultural differences, political differences can result in variations in enforcing human rights across the globe. Democratic countries are more likely to enforce human rights than dictatorships or totalitarian regimes. Human rights violations are more likely to occur in dictatorship and totalitarian governments as they are less likely to respect human dignity as they exercise “complete control over their citizens’ rights” (Hafner-Burton and Tsutsui, 2005:1387). Moreover, dictatorships and totalitarian regimes are less likely to listen to their citizen’s demands and are more likely to reply to such demands through violence and conflict (Hafner-Burto and Tsutsui, 2005:1387). Features of democracy such as political participation, high levels of democracy, and accountability reduce and attempt to prevent human rights violations (Mesquita, Downs, Smith and Cherif, 2005). However, existing research suggests that democracy does not eradicate human rights violations but reduces them. Therefore, it is not enough to just state democracy but it is essential to have these features and ensure everything else within the country is functioning appropriately. This explains why within the 2014 Human Rights Index Atlas democratic countries are not classified as extreme risk, but do still suffer from human rights violations (See Figure 2.2). The reason for this can be attributed to numerous factors such as the previously mentioned cultural relativism, as well as demographic and economic factors.

2.5 Factors Encouraging Violations

This section will look at additional factors that play a role in encouraging human rights violations. These factors include economic, political, demographic, and global factors. According to Mitchell and McComick (1988:478) “a commonly accepted view that lack of economic resources creates fertile ground for political conflict, in many cases prompting governments to resort to political repression”. The political repression within itself is a human rights violation but it also paves way for numerous other violations. In the simplest form, economical factors such as poverty results in “violation of the right to a standard of living adequate for the health and well-being of oneself and one’s family, including food, clothing, housing and medical care” (Pogge, n.d.:1). In addition to such violations, poverty results in violations of children’s rights as children are forced into

child labor (especially in bad conditions), prostitution, and/or are recruited for use in armed (Pogge, n.d.:1).

Demographic factors refer to population issues. It is argued that human rights are more likely to be violated if the population exceeds the available resources. Resource stress increases the likelihood of government's use of repression (Henderson, 1993). Finally, global factors refer to the influence countries have on each other. Countries work for their own interest and so human rights violations occur when for example "developing Third World governments receive economic support from capitalist nations whose primary goal is to maintain favorable conditions for investment" (Hafner-Burton and Tsutsui, 2005:1388). It is because the 'capitalist' nations are only interested in their own well-being; they do not concern themselves with human rights violations.

Another way in which human rights are violated is when human rights legislation is used cynically. Throughout history several countries have used human rights as a justification to intervene in a country's affairs. This happens when for example, "American Foreign Policy regularly appeals to universal values in the pursuit of a global ideological war that flouts international legal norms" (Donnelly, 2007:282). One recent instance of this was when U.S. President George W. Bush used human rights as one of the justifications for intervention. "When he [George W. Bush] justified the military intervention partly on human rights grounds, pointing to the many grave crimes committed under the Iraqi Leader" (Amnesty International, 2013). Despite this justification and the overthrowing of Saddam Hussein human rights violations are still rife within Iraq. Human rights therefore have been challenged as a concept because "it is seen by many to be biased and Western; it provides western powers with an opportunity to intervene in the Third World under the auspices of the United Nations" (Turner, 1993:499). The existence of human rights violations and the cynical use of human rights may result in people criticizing the effectiveness and existence of human rights. The violations and cynicism however, do not mean human rights do not exist or are invalid, instead it means that closer examination into the factors promoting the violations and cynicism is needed in order to successfully enforce human rights.

2.6 Lebanon's History of Human Rights and Recent Developments

As was previously mentioned, one of the founding members of the Universal Declaration of Human Rights was Lebanese. Lebanon has therefore been trying to implement human rights

within the country from the start of the creation of the Universal Declaration of Human Rights. However, due to Lebanon's history of war and conflicts and the violations (some of which will be mentioned within the subsequent section of this chapter) this attempt has been and still is unsuccessful.

The Lebanese Civil War that erupted from 1975-1989 "had a catastrophic impact on Lebanon's human and material capacities and hindered the development necessary for human rights" (United Nations General Assembly, 2010:3). The government could make no effort to "promote respect for human rights as constitutional rights which needed to be protected" until the 1990s (United Nations General Assembly, 2010:3). Once the war ended, the Lebanese Constitution was amended in 1995 as an attempt to promote human rights. The government therefore ratified the Lebanese Constitution in 1995 and added articles stating "Lebanon's obligation to protect a number of basic rights and public freedoms" (United Nations General Assembly, 2010:4). These new basic rights and public freedoms included: "in particular equality before the law in the enjoyment of civil and political rights; personal liberty; freedom of conscience and belief; freedom of education; freedom of expression, orally or in writing; freedom of assembly and freedom of association" (United Nations General Assembly, 2010:4). Lebanon's Constitution also stated that Lebanon is part of the Arab League of States. The Arab League of States was originally founded in 1945 and although Lebanon played an important role in its foundation it did not implement any of its Articles within its constitution until 1995.

The League consisted of forty-five Arab nations whose mission was to "improve coordination among its members on matters of common interest" (Masters and Sergie, 2014). Part of the coordination was the drafting an Arab Charter of Human Rights⁴. This occurred in 1960 in Beirut, Lebanon. Despite its early draft, it was not until 1994 that the first Arab Charter of Human Rights was published. The Arab Charter of Human Rights was heavily reliant on existing human rights legislation such as the Universal Declaration of Human Rights. "The adoption of the Charter symbolized the importance of respect for human rights both to the Arab world and the League" (Al-Midani, Cabanettes and Akram, 2006:147). There have been several versions of the Arab

⁴ The Arab Charter of Human Rights is in some instances a replica of the Universal Declaration of Human Rights, as it copied several of its articles. One example is Article 8 of the Charter "No one shall be subjected to physical or psychological torture or to cruel, degrading, humiliating or inhuman treatment" (Midani, 2004).

Charter of Human Rights all of which Lebanon has played a role drafting and instituting into its constitution. Lebanon's constitution therefore came to include key legislation from the Arab Charter of Human Rights as well the United Nations. For example, "Clause/Section B of the introduction of the Lebanese Constitution assures that Lebanon is an active founding member of the United Nations, is committed to all its conventions and to the international declaration of human rights, and that the state supports these principles in all fields and domains without exception" (Chalhoub, 2004:13).

Since the ratification of the Lebanese Constitution in 1995 and the introduction of the Arab Charter of Human Rights, there have been further developments. These developments have either been a result of social movements and/or governmental initiations. The first 'recent' development occurred when Lebanon signed the United Nations Convention Against Torture (signed in 2002), and the Optional Protocol for the Convention Against Torture (signed in 2008) (Alabaster, 2011). In addition to these Conventions, the Lebanese government has recently allowed independent monitoring of human rights. This has meant that local and international human right groups as well as the International Committee of the Red Cross (ICRC) were granted access to enter and observe/monitor detention centres and prisons within Lebanon. For example, during 2012 the ICRC visited 5,183 prisoners in 16 prisons and detention centres (United States Department of State, 2013:8).

In addition to these developments, there has recently been a move towards ensuring the independence of the Lebanese judiciary. It is because of the effects on a suspect's trial, that the United Nations highlighted the importance of independent judiciaries as early as 1985. The United Nations "has set forth standards for achieving an independent judiciary in its Basic Principles on the Independence of the Judiciary, which were adopted by the General Assembly in 1985" (Keith, 2002:195). In addition to these Basic Principles, the "United Nations Human Rights Commission has appointed a Special Rapporteur to help monitor progress and problems in implementing these principles" (Keith, 2002:195).

Within Lebanon, there is groundwork for an independent judiciary that includes the monitoring of judges by the Judicial Inspection Units. One problem with this is that evaluations may take a long period of time since there are no fixed schedules and no code of conduct for judges (The World Bank, 2003). Yet, recently people have been encouraged to forward complaints against the judiciary when there are sufficient grounds to do so. If serious allegations are found, "the

complaints are forwarded to the disciplinary committee of the Higher Judicial Council for further examination” (The World Bank, 2003). If a serious allegation is forwarded and the judge is found guilty, the Committee may sanction and even remove him/her from their post (The World Bank, 2003). Scepticism exists as to how stringent this Committee is.

Another recent development in human rights within Lebanon is the attempt to protect women from domestic violence and marital rape. This change occurred as a result of societal pressure and a social movement headed by KAFA⁵. KAFA has recently succeeded in pressuring the government to pass the “long-awaited 293 law on the Protection of Women and Family Members from Domestic Violence” in April 2014 (Harbi, 2015 June 6). However, it has not yet been able to (despite its social activism) pressure the government to accept a draft law criminalizing marital rape. The provision for the criminalization of marital rape was “removed after it sparked a backlash from religious and political authorities” (Harbi, 2015 June 6). This backlash highlights how in Lebanon religion, politics and culture can give way to grave human rights violations.

2.7 Human Rights Violations in Lebanon

Limited research exists surrounding human rights violations within Lebanon, especially human rights violations of accused sex offenders. Publications surrounding human rights violations tend to be conducted by Human Rights Watch and Amnesty International and focus on reporting general violations. The lack of a focus on the human rights of sex offenders, and the root causes of human rights violations further reinforces the importance of this study. This study emphasises violations, the beliefs and attitudes of participants and other socio-cultural reasons for the occurrence of violations.

2.7.1 Human Rights Violations by the Police

Lebanon’s police force has been publicly criticised for: lacking specialisation, having embedded corruption, and the use of torture. Within the Lebanese police force there is an evident lack of specialisation especially in areas involving vulnerable people and prison situations. “Officers

⁵ KAFA “(enough) Violence and Exploitation is a feminist, secular, Lebanese, non-profit, non-governmental civil society organization seeking to create a society that is free of social, economic and legal patriarchal structures that discriminate against women” (KAFA, 2015).

appointed to specific functions do not have the sufficient knowledge and skills. This is especially the case regarding officers appointed at the prisons and on street patrols and detective tasks” (Nashabe, 2009).

Alongside the lack of specialization, corruption is a major problem in Lebanon. “United Nations treaty bodies and United Nations special procedures have concluded that, where corruption is widespread, states cannot comply with their human rights obligations” (International Council on Human Rights, 2009:23). One form of corruption includes differential treatment “based on religious and sectarian ties, and political or ideological relations” (Nashabe, 2009).

In addition to the corruption and lack of specialisation, bribery and the use of ‘*wasta*’ is also common. ‘*Wasta*’ refers to “functions based on a system of connections and affiliations to high ranking officers or to influential politicians” (Nashabe, 2009). ‘*Wasta*’ enables many people who are detained (and have connections or money) to receive either better treatment or to be released without any further proceedings. Both the differential treatment and the use of ‘*wasta*’ have a detrimental effect on Article 7 of the UDHR.

Another problem with Lebanon’s police force includes the use of torture. Police within Lebanon have been reported to use torture to obtain confessions from suspects. Torture is defined according to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as “any act by which severe pain or suffering, whether physical or mental is intentionally inflicted on a person” (Office of the High Commissioner for Human Rights, n.d.). Torture by the police includes: “beatings, forced to stand for excessive periods of times, sleep deprivation, food and water deprivation, deprivation of sanitary facilities, electric shock, ‘*farrouj*’⁶, beatings on sensitive parts of the body, insults, urinating in the mouth, threats, prolonged solitary confinement etc.” (Daunay, 2011:28-29). Moreover, individuals have reported being “handcuffed in bathrooms or in extremely uncomfortable positions for hours at a time” (Human Rights Watch, 2013:1). Torture is reported to be common throughout Lebanon. For example, according to Human Rights Watch (2013:2) verbal abuse, degradation and humiliation of sex workers and LGBT detainees are so common “that many victims tended to gloss over them

⁶ Farrouj: this is when the hands and legs of the detainees are tied separately passing a metal rod between the dangled body.

when telling their stories". This torture and degrading treatment results in many detainees confessing to a crime despite their innocence. In addition to physical torture, individuals reported degrading treatment in relation to the way officers spoke to the detainee during interrogation. For example, Tamara, a transsexual woman stated:

"They didn't even tell me what I did or why I was there. When they found out I was transsexual, they started asking me really personal questions in very insulting ways. They asked me how I get f***** and told me that if I denied that I have anal sex they will imprison me. I was so scared and did not want to get beaten anymore that I said yes to everything. Every time I denied something I would get hit, what other option did I have?" (Human Rights Watch, 2013:21).

Another instance of degrading treatment occurred when the police conducted a raid of a Beirut cinema that was reportedly a place where gay men would meet. "Thirty-six men were arrested and transferred to a police station where they were all forced to undergo a rectal examination in order to check whether they had participated in homosexual activities" (Immigration and Refugee Board of Canada, 2014). A forensic doctor, under the orders of the public prosecutor, would carry out these rectal tests that are usually a form of "punishment, intimidation and humiliation" (Human Rights Watch, 2012). These tests have recently been banned in Lebanon after numerous protests and public pressure. They were banned in 2012, as they "are medically and scientifically useless in determining whether consensual anal sex had taken place and they constitute a form of torture" (Human Rights Watch, 2012).

Mistreatment by the police extends beyond LGBT persons and was also found to extend to drug users and sex workers. Human Rights Watch (2013) conducted research with fifty-two abused detainees and found that twenty-one women detained for sex work or drug use had experienced some form of sexual violence by the police. "This abuse included unwanted touching or groping, sexual assault, and rape" (Human Rights Watch, 2013:29).

The use of torture is a violation of several human rights legislations, conventions and protocols. For example, it is a violation of both Article 5 of the UDHR, and Article 8 of the Arab Charter of Human Rights. In addition to the violation of international legislation, the use of torture violates Article 401 of the Lebanese Penal Code. According to the Lebanese Penal Code, "anyone who severely beats someone with the intention of obtaining a confession about a crime will be imprisoned from three months to three years". The disregard of legislation and rights such as

those mentioned above is one of the effects of the popular punitive climate. Popular punitiveness occurs when people are no longer concerned with the rights of offenders, but instead focus on the punishments despite its severity and the rights it limits (See Chapter One).

2.7.2 Human Rights Violations within the Courts

2.7.2.a The Lack of Technology

Within Lebanon, the right to a fair trial is at risk of being violated due to the court procedures. To begin with, there is an evident lack of technology within all Lebanese courts. Computers are not used; instead the court recorder handwrites statements creating numerous distinct problems. The first of these problems is the risk of edits and omissions in the restatement by the judges as the “process requires the judge to constantly stop proceedings” (Khachan, 2005:185). The second problem is the loss of case files. Case files are at risk of being misplaced as all cases are handwritten and files are passed from one person to the next. Thirdly, “Lebanese judges have difficulties in accessing the legal and judicial information they need to decide cases before them, in accordance with the law, notably because of the lack of a complementary computing system in the courts and registries which would make it easily accessible” (Mansour, 2010:34). This problem ties in with the previous issue of the loss of case files, as there would sometimes be a delay in the handing over of case files. These problems are not only faced by judges, but are further extended to lawyers and have detrimental effects on the accused. This was emphasised during an interview with a prisoner in Roumieh prison. ‘Prisoner A’⁷ who has been imprisoned for 29 years could not remember why he was imprisoned. When an enquiry into his case file was made, the common response was that it was lost.

2.7.2.b The Problem of Illiteracy

Another problem within the courtroom is illiteracy; a vast number of people within Lebanon do not understand Classical Arabic and/or do not speak Arabic at all. Classical Arabic is usually used by newsreaders, official speakers, and in official written documents rather than in ‘lay’ people’s conversations. Al Arabiya’s article *‘In Multilingual Lebanon, Arabic Falls Behind’* emphasised the problem. The article reported, “some of our youngsters are incapable of writing correctly in Arabic and many university students we interviewed were not even able to recite the alphabet”

⁷ Prisoner A is a prisoner whom prior to my research, I, while working for AJEM, provided social and psychological support with the help of my colleagues, and therefore is not part of my data collection on incarcerated sex offenders within Lebanon.

(Al Arabiya, 2010). As for the uneducated, they may have never heard or used Classical Arabic leaving them illiterate within the court process. This problem also extends to foreign nationals who pass through the Lebanese criminal justice system.

In addition to the lack of understanding of Classical Arabic used in courtrooms, intentional and unintentional linguistic manipulation of trial proceedings also occurs (Khachan, 2010:190). This manipulation may go unnoticed when an accused does not understand Classical Arabic. However, even when noticed, there is usually not much that can be done (Khachan, 2010). One example of how manipulations may occur is when a judge is translating the suspect's answers from Colloquial Arabic into Classical Arabic; this process may result in a change in the meaning of the suspect's original statements. Another way in which linguistic manipulation occurs is while passing statements between the General Public Prosecutor, the Investigation Authority, the judge and the court writer. The process within the courtroom, involves both the Preliminary Investigation Authority's and the General Public Prosecutor. They both are tasked with providing the judge with information surrounding the case. This information influences the judge's decision. Once the statements of the General Public Prosecutor and the Investigation Authority are handed to the judge, "a third documented statement is written down by the court writer as dictated by the presiding judge who translates the suspect's answers from Lebanese Colloquial Arabic into Classical Arabic" (Khachan, 2010:191). This process further puts the case at risk of intentional or unintentional linguistic manipulation. Linguistic problems are also extended to non-Lebanese cases, which include the many domestic workers, foreigners and trafficked people who are taken to court.

A further problem within the Lebanese courtrooms is the backlog of cases that result in delays. The effect of these delays on the accused can be seen when they are imprisoned for a lengthy period of time due to the postponement of trials (Mallat, 1997). The imprisonment for a lengthy period without trial is a human rights violation and is a form of arbitrary detention. The backlog of cases can be attributed to two sources. First, the lack of computerization within the system; and second the lack of judges (Mallat, 1997). The Lebanese government has not been able to hire additional judges or train court staff. "It was noted recently by the Minister of Justice that the *Conseil d'état* had filled only thirty-two out of sixty-three legally assigned positions" (Mallat, 1997:34). Some reasons for this lack in hiring and training are due to the lack of skills, institutional development and economic difficulties (The World Bank, 2003).

2.7.2.c Problems With the Judiciary

Criticism of judges and lawyers within Lebanon surround concerns regarding the independence of the judiciary. Mansour (2010) highlighted the lack of judiciary independence when he spoke about the appointment of judges. “The appointment of half of the Constitutional Council by the Chamber of Deputies and of the other half by the government allows these two powers to select judges that are close to them. As a result, members of the Constitutional Council are politically influenced and its independence and impartiality are thus compromised” (Mansour, 2010:13).

The Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the United Nations all highlight the importance of an independent judiciary as being paramount in ensuring human rights. In addition to the international legislation, there are numerous articles within the Lebanese Constitution that are aimed at guaranteeing the judiciary’s independence. For example, Article 1 of the Code of Civil Procedures “stipulates that the judiciary is an independent authority, in regards to other authorities, in matters of the establishment of a case as well as pronouncing the relevant verdict, and any restriction not stipulated by law cannot limit its independence” (Chalhoub, 2004:13). Despite the Constitution, there are texts which hinder the independence of the judiciary. One example of such a text is one that places the appointment of higher judicial personnel such as the government commissioner to the state consultative council, the president and general prosecutor of the audit court and the chief justice of the different chambers in the hands of a government decree. “There are also the texts about the appointment, selection and transfer of judges that hinder the independence of the judiciary, because it allows the executive authority to interfere in the functions of a judge” (Chalhoub, 2004:15).

The lack of independence of the judiciary has resulted in a lack of faith in the Lebanese criminal justice system. Chapter One provided an example of the lack of faith in the criminal justice system when the media and the reporting of a sex offence were examined. Another example is the recent case of Myriam Achkar. Within this case, the perpetrator who is of Syrian nationality has been sentenced to death for the attempted rape and murder of Myriam Achkar. In the days following the murder (i.e. before the sentencing of the accused), the public’s lack of confidence in the Lebanese criminal justice system was highlighted through the media. The victim’s family (through the use of media) highlighted the fact that the people’s lack of confidence was due to corruption. Corruption, which in their [the family’s] opinion came in the form of political pressure within the judiciary (LBC News, 2011). One example of the statements yelled out by the

victim's family during the media coverage of the case includes: "We know that there is political pressure that the accused be released and handed over to the Syrian authorities. If this happens I will make sure that all the people within Lebanon will take to the streets and ensure his execution publicly" (Kalam el Nas, 2011).

The political interference usually takes the form of a phone call to a sitting judge. According to Takieddine (2004:24):

"A high profile deputy and political leader said in a televised interview 'justice and the judiciary in Lebanon are in the service of the rich and the powerful and not in the service of the poor. Justice is dispensed according to the judge's moods. Most judges have their intelligence patrons, Lebanese or non-Lebanese. Intelligence officers intervene, a telephone call... this is justice"

2.7.2.d Arbitrary Detention

In addition to the issue of judiciary independence, judges in Lebanon are accused of arbitrary detention. According to the United Nations working Group on Arbitrary Detention a detention is arbitrary when:

"(1) Detention without a legal basis for the deprivation of liberty (as when a person is kept in detention after the completion of his/her sentence or despite an amnesty law applicable to him/her).

(2) Detention of a person for exercising his/her rights and freedoms guaranteed in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

(3) Detention of a person after a trial which did not comply with the standards for a fair trial set out in the Universal Declaration of Human Rights and other relevant international instruments"

(Human Rights in Lebanon, 2011).

According to the Internal Security Forces "around 13% of detainees in Lebanese prisons were foreigners who had finished serving their sentences" (Human Rights Watch, 2011). However, the actual number of Lebanese facing arbitrary detention is unknown due to lack of investigation.

2.7.2.e The Use of Military Courts on Civilians

Violations due to the structure of the Lebanese court system also occur. One example of such a violation is the use of Military Courts to try non-military personnel. "According to the Lebanese Code of Military Justice of 1968, Lebanon's Military Court is a special court competent to statur

on offences against national security and crimes committed by military personnel” (Euromed Right, 2013). However, its jurisdiction is usually “extended beyond disciplinary matters and is applied to civilians” (Euromed Right, 2013).

According to the United Nations Human Rights Committee there have been cases where civilians have been brought before military courts on “certain security related charges, which sometimes have been interpreted widely and used to stifle freedom of expression” (Amnesty International, 2009). This has concerned the Human Rights Committee as it affects the chances of a fair trial, since military judges are not tasked with dealing with all forms of crimes. Moreover, the trial of civilians in a military court is a violation of human rights and falls “short of international standards for fair trials, as the judges within the military courts are predominantly serving military officers who cannot be considered independent, who lack adequate judicial training and because military court judgements do not provide full explanations for their verdicts” (Amnesty International, 2009).

2.7.2.f Discrimination

According to Article 3 of the Arab Charter of Human Rights and Article 7 of the Universal Declaration of Human Rights, all forms of discrimination (including discrimination on the ground of sex) are prohibited. However, despite these Articles and various other legislations surrounding women’s rights, discrimination occurs within Lebanon. Forms of discrimination include (but are not restricted to) forbidding mothers from passing her Lebanese citizenship to her children, difficulties in obtaining a divorce, and violence against women. Within Lebanon, divorce is seen as a male right; therefore it is extremely hard for women to get a divorce. It is especially difficult for certain religious sects such as the Christians and Shiite. Sunni and Druze courts are a bit more lenient when it comes to divorce because they are able to initiate severance cases to end their marriage. “Severance is the dissolution of the marriage by judicial order for reasons specifically enumerated by law, but which requires women to prove certain criteria, such as unpaid spousal maintenance, the husband’s inability to have sexual relations because of impotence, contagious disease, or insanity” (Human Rights Watch, 2015 February 1).

It is important to note that the criteria for divorce are more stringent for women than they are for men. “Sunni courts often find women partly culpable in severance cases- even in cases with spousal violence or harm- reducing their pecuniary rights, and dissuading them from pursuing the path” (Human Rights Watch, 2015 February 1). Shia women on the other hand, need to seek

the approval of the Ja'fari⁸ religious authority in order to obtain a divorce. This is sometimes difficult due to the inability to know who is considered to be a sovereign authority and whether the decision will be recognised. These factors deter women from pursuing a divorce. Within the Christian sect there are restrictions on terminating marriage that apply equally to the genders. However, the law is disproportionate in regards to its impact, as women receive the harsher end of the law. For example, spousal violence is in itself insufficient to obtain an immediate end to a marriage. Another example is that unlike Christian women, Christian men can convert to Islam and remarry without obtaining a divorce.

This type of discrimination against women is only one type of discrimination other forms of discrimination results in violence against women. Violence against women as a result of discrimination occurs when police officers do not take women seriously surrounding domestic violence cases, or when there is no adequate protection for women. These types of discrimination are violations of women's right to equal treatment and protection under the law (Article 7 of the Universal Declaration of Human Rights).

There are several reasons why discrimination occurs but the primary reason is the patriarchal society that results in the subordinate status of women within the country (Human Rights Watch, 2015). This subordinate status is further re-enforced by Lebanon's legal system that "reflects and buttresses a patriarchal, sectarian, socio-political order" (Human Rights Watch, 2015).

2.7.3 Human Rights Violations within Prisons

The use of torture is but one criticism of Lebanese prisons. Other criticisms include:

- (1) Inadequate sanitation, ventilation and lighting
- (2) Lack of potable water
- (3) Lack of beds
- (4) Lack of basic and emergency medical care and
- (5) Overcrowding (United States Department of State, 2013).

⁸ Ja'fari religious authority is the head of a Lebanese Ja'fari court which is a Sharia court "authorised to adjudicate matters of personal status-marriage, divorce, inheritance" etc. (Weiss, 2008:371).

Across Lebanon's twenty-one adult prisons, the maximum capacity of all twenty-one prisons is listed as 3,500 inmates yet, it is reported that there are "between 5,876 to over 7,000 prisoners currently detained" (Sikimic, 2011). For example, "Roumieh prison which has the capacity of 1,400 prisoners currently holds almost 4,000 inmates alone" (Nashabe, 2007:3). Overcrowding is an issue as it results in "inadequate access to natural light, insufficient exercise time, poor meal provisions, deplorable sanitation, and in chronic overcrowding inmates are often left sharing beds or sleeping on the floor" (Nashabe, 2007:7). The extent of overcrowding can be evident when for example in Roumieh prison prisoners sleep on "bedrolls, often ten to a room that was originally built to accommodate two prisoners in beds" (United States Department of State, 2013:6). This sleeping arrangement results in deplorable sanitation. In addition to deplorable sanitation, overcrowding also results in poor medical care. "Under the Lebanese and international regulations a doctor is required to check up on all patients at least once a week" (Sikimic, 2007). However, this rarely occurs due to the overcrowding, the lack of doctors and prison guards making it a difficult and daunting task for inmates.

Some prisons and/or retention centres within Lebanon are underground and said to be more inhumane. One such retention centre, which was opened on the 14th of December 2000, is a converted underground parking lot located under a bridge. Within this retention centre around 590 persons are locked in thirteen underground cages of 40m² without neither natural light nor access to any outside area (Lebanese Centre for Human Rights, 2008). Within this detention centre there is a mixture of male and female detainees whom are guarded by male guards putting them at risk of rape, and/or other unwanted sexual activity. The conditions within the prisons and detention centres are a violation of the Universal Declaration of Human Rights Article 25.

According to Lebanese decree 17310 of 1964 all prisons are under the management and administration of the Ministry of Justice. Decree 17310 was drafted in order to help reduce the privatisation of prisons and prevent torture within prisons. However, this decree is not fully implemented as torture is still a common practice in all prisons and all prisons are under the management of the Internal Security Forces. Within the prisons, "inmates are under the authority of the same services that arrested and investigated them, and are under a limited or non-existent supervision of the judiciary" (Lebanese Centre for Human Rights, 2008). This creates two problems the first is the repeat contact with the arresting force, while the second is the lack of training. The management of prisons by police officers means that there is a lack of training in

prison management and offender treatment. In addition to the lack of training, having to see the person who arrested the offender on a daily basis could have a detrimental effect especially if torture was used during interrogation. As was previously mentioned, torture is prohibited by Lebanese law and international conventions and protocols. However, despite the protocols and conventions, torture within Lebanese prisons is still rife. A video recently emerged of prisoners within Roumieh prison being severely beaten by prison guards with batons. A released prisoner recently spoke to Al-Araby Al-Jadeed news agency and claimed, "The leaked video is nothing compared to what really happens. There are other tapes showing more violations" (Fawz, 2015 June 26).

2.7.3.a Human Rights Legislations for Prisons

In addition to legislation like the Universal Declaration of Human Rights there have been several publications with guidelines surrounding human rights within prisons. One such publication is the '*Human Rights and Prisons: A Pocketbook of International Human Rights Standards for Prison Officials*', which lists rights and provide guidelines for officials running prisons. Within this handbook, human rights are divided into several sections, these sections include: Right to Physical and Moral Integrity, Right to an Adequate Standard of Living, Health Rights, Making Prisons Safe Places, Making the Best Use of Prisons and so forth. Under these sections there are several guidelines as to how prisoners should be treated.

One of the guidelines stated under the Right to Physical and Moral Integrity is "all persons deprived of their liberty shall be treated at all times with humanity and with respect for the inherent dignity of the human person" (Office of the United Nations High Commissioner for Human Rights, 2005:2). Moreover, Section III of the handbook covers the Right to an Adequate Standard of Living. Under this section it is stated:

" All persons deprived of their liberty shall have the right to an adequate standard of living, including adequate food, drinking water, accommodation, clothing and bedding. Accommodation for prisoners shall provide adequate cubic content of air, floor space, lighting, heating and ventilation. Prisoners required to share sleeping accommodation shall be carefully selected and supervised at night. Adequate food and drinking water are human rights..." (Office of the United Nations High Commissioner for Human Rights, 2005:4).

Section IV lists the Health Rights of Prisoners; under this section prisoners are entitled to the highest standard of physical and mental health, medical examination and necessary medical treatment free of charge (Office of the United Nations High Commissioner for Human Rights, 2005). Comparing the situation within Lebanese prisons to these guidelines and rights provided in *'Human Rights and Prisons: A Pocketbook of International Human Rights Standards for Prison Officials'* (mentioned above), none of these rights are upheld. One of the reasons why they might not be upheld is due to the attitudes and beliefs of criminal justice agents within Lebanon. Although there are numerous debates surrounding whether prisoners do in fact deserve human rights, it is important to note that they do despite their crimes. Prisoners, like others, deserve rights due to the fact that they are 'human'. "One cannot stop being human, no matter how badly one behaves or how barbarously one is treated" (Donnelly, 2013:10).

Conclusion

This chapter has highlighted the history of 'modern' human rights which dates back to 1940s, when the United Nations formed a committee to draft the Universal Declaration of Human Rights. It has done so in order to highlight how throughout the years, there has been an increase in the amount of legislations, conventions and human rights have now come to be law. Human rights have been developed and continue to develop in order to ensure that people are able to live an adequate safe and secure life. However, examining the enforcement of human rights it is evident that countries vary in the extent to which they enforce human rights. Human rights violations exist within various countries at different degrees. It is because of these violations and the variations amongst countries that it can be academically argued that human rights are not universally applied. This is despite the national and international legislation that attempts to enforce human rights.

Examining human rights within Lebanon, this chapter has highlighted that Lebanon has not only played an important role in the formation of the Universal Declaration of Human Rights, but it has also signed numerous conventions and legislations as well as been a part of the Arab League of States. Being a part of the Arab League of States has meant that Lebanon has adopted its Charter on Human Rights and implemented it into its constitution. However, despite these developments, Lebanon remains riddled with human rights violations at the different stages of the criminal justice system.

Human rights violations at the hands of Lebanese police officers, included:

- Differential treatment based on religious ties and/or politics.
- Releasing suspects due to suspects' use of connections.
- The use of torture on detainees.

According to existing literature, human rights violations examined within the Lebanese courts included:

- Editing and omitting information from case files due to the lack of technology.
- Loss of case files.
- Literacy problems which results in numerous national and international people failing to understand court procedures due to the lack of comprehending Classical Arabic.
- The extradition of suspects, lenient sentencing, a verdict of innocence, and longer sentences due to the corrupt judges.
- Arbitrary detention.
- Using military courts on civilians.
- Discrimination according to sex, gender, race and nationality.

Human rights violations within Lebanese prisons:

- Use of torture by prison guards.
- No adequate sanitation, ventilation and lighting.
- No access to potable water.
- Lack of beds.
- Lack of basic and emergency medical care
- Inadequate access to natural light.
- Insufficient access to exercise
- Poor meal provisions.
- Unwanted sexual contact due to overcrowding.

As was discussed, there are several reasons for the lack of implementation of human rights and their violations. These factors include, cultural relativism, as well as global, demographic, political and economic factors. Therefore, in order to understand why violations occur these factors need to be taken into account. Within Lebanon, no research has been conducted explaining the factors that result in human rights violations. In an attempt to explain some of the factors, Chapter Three 'The Lebanese Criminal Justice System' will examine the development of the Lebanese criminal justice and how the system functions. Examining how the Lebanese criminal justice system developed and operates will provide an insight into Lebanese politics as well as why violations occur, and the social and religious attributes that result in discrimination and violations. It will further highlight, where possible, how sex offenders move through the criminal justice system further adding on to this chapter. However, Chapter Three in some instances does not focus on sex offenders due to lack of research.

Chapter Three

The Lebanese Criminal Justice System

Introduction

This study has so far examined the global move towards public punitiveness, the emergence of human rights, and human rights in Lebanon. It has attempted to explain through the use of existing research how Lebanon fits into this global climate of popular punitiveness and how human rights violations occur therefore embedding Lebanon into the popular punitive trend. In order to build on existing arguments made throughout Chapters One and Two, it is important to examine the Lebanese criminal justice system. Examining the Lebanese criminal justice system will add to the understanding of human rights violations and popular punitiveness as a whole. This chapter provides details surrounding existing literature on the way the Lebanese criminal justice system functions. It begins by describing the history of the Lebanese criminal justice system. This is important since it not only provides a background but it also sheds light on the role religion and culture plays within the criminal justice system. The chapter will (after discussing the history) then discuss the current system in relation to the arrest, detention, trial and imprisonment of sex offenders.

Through describing the trajectory of sex offenders within the criminal justice system and the history of the criminal justice system, the role of religion and culture will be further highlighted. The final part of this chapter will therefore examine the literature surrounding the effects of religion and culture on criminal justice and relate it to the findings of the literature review on the history of Lebanon's criminal justice system and the trajectory of sex offenders. The literature review provided includes what little, discoverable, research has been conducted surrounding the trajectory of sex offenders through the criminal justice system.

3.1 History of the Lebanese Criminal Justice System

3.1.1 Pre-colonial

Lebanon has endured numerous colonisations and occupations, each of which brought with it different people and different traditions. The effects of these have seeped into the Lebanese

criminal justice system; it is for this reason that it is important to examine these colonisations and occupations beginning with the Phoenicians in 1550 BC-300BC.

3.1.1.a The Phoenicians

The Phoenicians were present in an era where, in the majority of places, kings would make decisions however, this was not the case in Phoenician cities. Within Phoenician cities, assemblies/councils were formed composed of traders and wealthy merchants. "These councils exercised formidable power over monarchs everywhere. There is plenty of evidence, of the Byblos kind, that at the highest levels of power kings were forced to consult these assemblies of free male citizens" (Keane, 2009:1010). Because these members of the Assembly were elected, it can be said that the Phoenicians created the first republics. These republics were governed by an elected magistrate of judges forming a version of what can be called a Supreme Court (Habchi, n.d.). In addition to these early courts, it has been argued by scholars such as Muhammad Mugarby (1998) that the Phoenicians established the first law school in history in Beirut. However, little is known about the Phoenician law.

3.1.1.b The Assyrian Empire

The Phoenician rule was ended by the Assyrian Empire which took control of the area administering harsh rules and punishments aimed at subduing any rebels. Examining the rule of law, the Assyrian Empire "operated primarily by the decisions of the king and officials based on precedent" (Beck, 1998). The harsh punishments were counter effective and rather than subduing the rebels they encouraged continuous rebellions by citizens within the area. Punishments included death, the cutting off of ears, nose, lips, or castration, impalement upon a stake, deprivation of burial, strokes of the rod, payment and forced labour (Jastrow, 1921). Imprisonment was only an option for political reasons therefore, few people were imprisoned.

The Assyrian Code was divided into two texts. Text No.1 was "almost entirely taken up with laws in which women enter as the subject" (Jastrow, 1921:3). Text No.2, dealt with property, the fields and houses of those residing within the Assyrian Empire. Crimes that fell under Text No. 1 included: homosexuality and adultery. Adultery was seen as a very serious crime as it "violated a taboo of society and angered the Gods" (Campbell, 2003:27). It is because of the seriousness attributed to the crime that women received the full force of the punishment. "Suggesting that she had either seduced her lover or disguised her identity as a married women" (Campbell, 2003:28). Punishment for adultery was decided by the husband who could either put her to death, mutilate her or let her go. Homosexuality on the other hand, was vastly

tolerated within the Assyrian Empire framework, however sodomy was illegal. Punishment for sodomy varied from “fifty blows with a rod, shaving the accused’s hair off, making him a slave of the king for a month and a heavy fine of 3600 shekels of lead” (Campbell, 2003:31).

In addition to the harsh punishments, the Assyrians returned the power to kings. “The King was seen as the sole representative of the Supreme God upon earth but in practice he ruled through a state council composed of his great men” (Mattila, 2000:7). His greater men included “a trio of officials, the major domo, the vice-chancellor, the field marshal” and priests (Mattila, 2000:4). Each of these men was placed in hierarchal order and had diverse functions which included advising the king and acting as witnesses in legal documents. This structure implied that the court system had further developed and included a range of people. The importance placed on the King, and defining crimes such as adultery as something that angered the Gods shows how within the Assyrian Empire, religion was integrated into the then criminal justice system. The Assyrian Empire fell to the Babylonians at the Battle of Nineveh in the period between 613 and 611 BC.

3.1.1.c The Babylonian Empire

The Babylonian rule implemented the Hammurabi Code that consisted of 282 laws. Under the Babylonian rule, the accused was taken to a court where judges (who were usually town elders) presided. Babylonian courts differed from previous courts as witnesses were used and for the first time judges were held accountable for their mistakes. However, despite this, those accused rarely got a chance to defend themselves (Horne, 1915). Moreover, religion still played a role, as priests were still involved in the then ‘sentencing procedure’. For example, the women in cases of adultery could plead their innocence to the judiciary and priests (Thompson, 2010). However, if someone other than her husband accused the woman, she was usually thrown into the river. “If she drowned it was a sign of guilt, but if she survived it meant that the river spirits knew of her virtue and saved her” (Thompson, 2010:129). This further reinforced the role of religion within the criminal justice system of that time, as it was up to the Gods (the river spirits in the case of adultery) to judge a woman’s innocence or guilt.

3.1.1.d The Persian Empire

The Babylonian Empire fell in 36 B.C. when the Persian Empire took control over the region. Under Darius I’s rule, the Persian territory was divided “into several provinces to make it easier to govern” (Collelo, 1987:30). A Governor was appointed for each of the provinces to ensure laws were abided by and taxes collected. Having different Governors meant that there was no

uniformity. Instead “each province remained an independent socio-economic units with its own social institutions, internal structure, local laws, customs, traditions, systems of weights and measure and monetary units” (Fried, 2004:2).

The Persian Empire fell to the Greeks in 333 B.C.; however, the Greeks also used this province system created by the Persians. Differently to the Persians, the Greeks wrote the laws in written statues “setting forth procedural methods and substantive rules for the administration of justice” (Encyclopaedia Britannica, n.d.).

3.1.1.e The Romans and Arab Rule

Shortly after the Greeks came the Roman Empire. The Romans left behind two main legacies: the first of which was the influx in Christian persons within the region and secondly, numerous law schools and the continuous development of the criminal justice system. The Romans (who were heavily influenced by the Phoenicians) provided rights to its citizens and developed various legal schools (Habchi, n.d.). However, it was internally divided and therefore fell to the Arab Empire.

Under the Arab rule, the influx of Maronites⁹ and the rise of Islam, led to the creation of the multi-religious Lebanon that still exists today. Despite the rise of Islam and the influx of people into Lebanon, it was not until the rise of the Ottoman Empire in 700 AD that the law was altered to include Islamic law. “During the Ottoman rule the legal system applied in Lebanon was on the whole Islamic law (Sharia)” (Library of Congress, 1987). Islamic law ranged in regulations and “ad hoc” solutions from “women’s dress, to the divisions of spoils of war, from the prohibition of swine, to the penalty of flogging for fornication” (Coulson, 1964:13). Under the Ottoman Empire at the end of World War I, Islamic law and Sharia courts within Mount Lebanon were quickly replaced as France and Britain took control.

3.1.2 Colonial Rule

⁹ Maronites: make up the largest Christian community in Lebanon, the Maronite church is exclusively a Lebanese church. “The Maronites originally lived in present-day Syria but migrated to the Lebanese mountain range in the 7th century, seeking protection from religious persecution” (Haboush, 2005:471).

France and Britain defeated the Ottoman Empire in 1918; however, they did not gain control until the mandate in 1918¹⁰. Under the mandate, Britain gained control of Jordan, Palestine and Iraq, while France received Lebanon and Syria. The French Colonisation brought about numerous changes in governmental, legal and criminal justice arenas. To begin with, the Lebanese constitution emerged in 1926 under the supervision of the French. “Modelled after the French Third Republic, it provided for a unicameral parliament composed of the Chamber of Deputies, a president and a Council of Ministers” (Ghazi, 1997). Parliamentary seats, in order to accommodate for the various religions, were divided amongst the various religious sects.

In addition to these changes, the French further influenced the criminal justice system. Firstly, it influenced the laws within Greater Lebanon as they were derived from the French Civil Code, the Code of Civil Procedure, the Commercial Code, the Penal Code, and the French Statute Law of the 1920s (El Samad, 2008). It is important to note, that although the French influenced most of the legal system, the Ottoman Empire’s Sharia law was still prevalent. Therefore, under the French rule, Lebanon came to have two legal systems. The first was based on the French law and the second on the Islamic (Sharia) law (Labaki, 2011). In addition to the laws, the French played a vital role in the formation of the Lebanese police.

Although Lebanon had a form of police throughout the Ottoman Empire, it was not very organised. “At the arrival of French troops, the Lebanese Gendarmerie was similar to an unorganised armed gang unable of carrying out any security mission” (Internal Security Forces Web site, n.d.). France therefore incorporated officers from the French Gendarmerie into the Lebanese police, opened a specialized training school, undertook patrols and set up checkpoints. Developments such as those mentioned above continued until Lebanon gained its independence in 1943. After its independence, detective squads were created and legislation was passed that ensured the police were “dependent on the Ministry of the Interior” (Internal Security Forces Web site, n.d.).

¹⁰ Mandate: refers to the Mandate System of the League of Nations, under which Lebanon and the surrounding region was divided according to the Mandate powers i.e. France and Britain (See Chapter Two).

3.1.3 Post-Colonial and Current Criminal Justice

The remnants of the Ottoman Empire Islamic courts, as well as the French law and policing styles are still evident throughout the current Lebanese criminal justice system. The remnants of the Ottoman Islamic Empire are in the form of religious courts. While current Lebanese law is a mixture of French law, Civil law, and even Ottoman (Islamic) law (some of which have not been amended since 1926). In relation to Lebanon's police, they are still structured according to French recommendations of the 1920s and still possess close ties with the French for training purposes.

3.1.3.a Lebanese Laws

Lebanese laws can be divided into three divisions: (1) governmental, (2) financial (for example fraud) and (3) 'moral'. Laws surrounding 'morals' include issues of rape, paedophilia, molestation and homosexuality. Lebanon's judicial system on the other hand, is comprised of the civil ('*Adli*') system, the administrative system, religious courts and military courts (Mallat, 1997). The civil ('*Adli*') system includes criminal, commercial and civil courts, the Court of Cassation being the highest court. Within the administrative system, the "Conseil d'etat' (*Majlis al-shura*); is the smaller but important administrative system" (Mallat, 1997:29). The "Conseil d'etat" adopts a dual judiciary system: the judicial in settling the civil and criminal litigations and the administrative" (The State Council Web site, n.d.). There are three main courts within the civil, administrative, and military courts. These courts include the Court of Cassation, the Appellate Court, and the First Instance Courts.

1. The Court of Cassation also known as Supreme Court is the highest court within Lebanon. It is comprised of one Chief Justice with the other presidents of the Court of Chambers. "These Chambers have their own jurisdictions and each one is formed of one president and two counsellors" (Chalhoub, 2004:9). A General Prosecutor is also present within these courts. The Court of Cassation is responsible for overruling "decisions taken by the courts of appeal that were in breach of the juristic rules" and settling conflicts between a judicial court and a religious court (Chalhoub, 2004:9).
2. The Appellate Court or Court of Appeal: There is one Appellate Court for each of Lebanon's eight provinces. The chamber is formed of a president and two counsellors. "There is one General Prosecutor before every Appellate Court" (Chalhoub, 2004:9).

3. First Instance Court: “This court is composed of District Judges (Unique Magistrates) or specialized chambers each composed of one president and two counsellors” (Chalhoub, 2004:9).

In addition to these courts, there are numerous other courts, boards, and commissions. “Therefore, and contrary to the constitutional and international texts and principles adopted by Lebanon, Lebanese regulations encompass a large number of courts and judicial committees/authorities, many of which contradict the contents and purpose of the texts found in the Lebanese Constitution (Chalhoub, 2004:15). For example, within Lebanon, “there is generally a separate jurisdiction system for family law” these are the religious courts (Mallat, 1997:29). The religious court system pertains to the two main religious sects, Christianity and Islam (Library of Congress, 2012). These two main religious court systems are further subdivided according to the eighteen religious sects.

Lebanon despite its small size is comprised of eighteen recognized religious sects; this is a result of its history of colonisations and occupations. Muslim sects include: “Shiite, Sunni, Druze, Isma’ilite, Alawite or Nusayri” (CIA Online, 2012). While the Christian sects include: “Maronite, Catholic, Greek Orthodox, Melkite Catholic, Armenian Orthodox, Syrian Catholic, Armenian Catholic, Syrian Orthodox, Roman Catholic, Chaldean, Assyrian, Copt and Protestant” (CIA Online, 2012). These eighteen religious sects each have their own laws and small religious courts.

Article 9 of the Lebanese Constitution protects the religious courts, as it “authorises religious confessions to manage their affairs in an autonomous manner” even if it is only in regard to personal status laws (Mansour, 2010:15). When examining military courts in Lebanon, there has been a move away from using them for “matters involving military personnel in the call of duty to them being used with non-military personnel (Mallat, 1997:29). The use of military courts on non-military personal is a violation of legislation surrounding the use of military courts and its jurisdiction (See Chapter Two).

3.1.3.b Lebanese Judiciary

The appointment of judges within Lebanon is left to the Supreme Judicial Council (Brown, 2001). The appointment of the judges is based on a ratio in order to ensure representation of the multi-religious sect of Lebanon. All governmental employers, which include judges, need to fulfil a 6:6 principle ensuring that all religious sects are represented equally. This 6:6 principle

ensures that there are an equal number of Christian and Muslim judges. Of course in addition to fulfilling the 6:6 principle, pre-requisites for being a judge include: graduating from a Lebanese law school, undergoing training within an institution and passing official exams (Chalhoub, 2004). Similar to judges, lawyers have to attend a Lebanese law university, and undertake three years of practical training under the direction of a senior lawyer.

3.1.3.c Lebanese Security Sector

Lebanon's security sector has not always been an independent sector. Most colonisations/occupations had their own security sectors in charge of defending the king's land, so when each colonisation/occupation fell so did its security sector. As was previously mentioned, France played a primary role in helping develop Lebanon's broken security sector. This developed security sector however was unravelled in the 1970s at the start of the civil war. The civil war weakened the state and paved way for Syria's occupation of Lebanon. Through its occupation, the Syrian's controlled Lebanon's security sector as well as developed their own courts. Syrians were therefore, in charge of security for example setting up roadblocks, arresting and even trying people.

Syria's control lasted until 2005 when it was ousted due to the rise of the Cedar Revolution¹¹. After the Cedar Revolution, the Lebanese government concentrated on "removing the remnants of Syrian influence, upgrading the capabilities of the security service, professionalizing the officer corps and ensuring greater civilian control of the military" (El Hokayem and McGovern, 2008). Therefore, the government with help from Britain, the United States and France started training the 'new' Lebanese security force.

The current Lebanese security sector is composed of, the General Security Force, the Lebanese Armed Forces and the Internal Security Forces. The General Security Force, also known as the First Bureau was created in 1921 and is now a force of around 3,600 personnel and its mission is divided into three categories (El-Hokayem and McGovern, 2008). Category 1 deals with the nation's security, category 2 with the media and category 3 with immigration services (El-

¹¹ Cedar Revolution: A series of demonstrations that took place in Lebanon after the assassination of the former Lebanese Prime Minister Rafik Hariri on 14 February 2005. The demonstrations called for the withdrawal of Syrian troops from Lebanon, the formation of an independent government (free from Syrian involvement), and the establishment of an international commission to investigate the assassination of Prime Minister Hariri.

Hokayem and McGovern, 2008). It is one of the smaller forces of the security sector and usually only deals with issues of national security and border control. The Lebanese Armed Forces, on the other hand is responsible for:

- “(1) Facing the Israeli occupation and its perpetual aggression in South Lebanon and West Bekaa;
- (2) Supporting the steadfast of the Lebanese citizens to endure the complete withdrawal of the Israeli forces to internationally recognized border.
- (3) Defending the country and its citizens against all aggressions;
- (4) Confronting all threats against the country’s vital interest
- (5) Coordinating with Arab armies in accordance with ratified treaties and agreements
- (6) Maintaining internal security and stability,
- (7) Engaging in social and development activities according to national interests, and
- (8) Undertaking relief operations in coordination with other public and humanitarian institutions” (Lebanese Armed Forces Web site, 2012).

The Lebanese Armed Forces, originally formed in 1945, has undergone several reformations due to the influx of Muslim people and the Syrian occupation. These reformations resulted in changing the force from consisting predominantly of Christian Maronites to a multi-sectarian force. Today, the Lebanese Armed Forces is still a multi-sectarian force headed by the army commander and is acclaimed for being neutral in a war-torn country.

The Lebanese Internal Security Forces (ISF) is Lebanon’s police and was first created in a loose, semi-military form during the Ottoman rule. However, it was undeveloped until the French restructured and strengthened the force. Like in France, Lebanon’s Gendarmerie was developed as a military force that carried out police’s duties. This military connotation is still evident today as they both share the same patterned uniform and the military is still able to carry out police like duties (Lawday, 2000).

The Lebanese Internal Security Forces, similar to Lebanon’s cabinet, is divided amongst the different religious sects. The highest posts within the ISF are occupied by Maronites although statistically Christians only make up 47% of the force (Nerguizim, 2009). This favouritism towards Maronites within the ISF (and Lebanon as a whole) dates back to the French colonisation when Maronites were assigned the highest positions.

Policing in the ISF is divided into three sections: (1) administrative (2) judicial and (3) 'other fields of policing'. Administrative policing include: "policing and establishing security, ensuring public order, protecting the people and properties, ensuring laws are executed, and freedoms are protected within the limits of law" (Internal Security Forces Web site, 2005). 'Other fields of policing' include: "supporting the public authorities in carrying out their duties, guarding the public, guarding the prisons as well as forming the prisons administration and guarding diplomatic missions in Lebanon" (Internal Security Forces Web site, 2005). Responsibility for the 'other forms of policing' lies with the smaller police forces, which include for example, the Moral Police. The Moral Police, deal with all acts (criminal and non criminal) that are deemed to be immoral. These acts include, but are not confined to, prostitution and begging. The Moral Police within Lebanon are usually compared to the much stricter religious police in Saudi Arabia.

3.1.3.d Lebanese Prisons

As was previously mentioned, police officers from the various sectors of the ISF are tasked with the duty of managing prisons. There are twenty-one prisons in Lebanon, the largest of which is Roumieh Prison. "Lebanese engineer Pier Khoury in cooperation with the French Ministry of Justice and engineer Golym Guylt designed Roumieh prison in the 1960s" (Nashebeh, 2007). The prison was designed with the intent to have five separate sections each of which was to be filled with separate categories of prisoners. The first section was meant to be for 500 people who have been detained, yet not necessarily tried (*mawqufeyn*) (Nashabe, 2007). The second section was meant to cater for 900 tried prisoners (*mahkoumeyn*) (Nashabe, 2007). The third section was meant to fit 100 juveniles, the fourth was meant to cater for fifty elderly prisoners (Nashabe, 2007). Finally, the fifth section was meant to be available to those with a sentence less than six months and who were allowed out during the day (Nashebe, 2007). These initial plans were never carried out; instead the blocks that made up Roumieh prison came to be filled with numerous prisoners serving different sentences for a variety of crimes. This disorganised structuring of Roumieh prison can also be found within the other Lebanese prisons.

The Institute for Criminal Policy Research published some information surrounding Lebanese prisons and the penal population in its 2014 World Prison Brief. This information included things such as the prison population, and prison population rate (See Figure 3.1).

Figure 3.1 Lebanese Prison Brief

Prison Administration	Internal Security Forces, police officers		
Prison population total (including pre-trial detained/remand prisoners)	6,012		
Prison population rate (per 100,000 of national population)	120 <i>based on an estimated national population of 5.02 million at November 2014.</i>		
Pre-trial detainees. Remand prisoners (Percentage of prison population)	66.2%		
Female prisoners (percentage of prison population)	4.9%		
Juveniles/minors/young prisoners including definition (percentage of prison population)	1.6%		
Foreign prisoners (percentage of prison population)	36.0%		
Number of establishments/institutions	22 <i>(21 prisons for adults, 1 for juveniles, excluding centre for migrants)</i>		
Official capacity of prison system	3,500		
Occupancy level (based on official capacity)	171.8%		
Prison population trend	Year	Prison Population Total	Prison Population Rate
	2000	4,917	154
	2002	6,405	186
	2004	5,990	159
	2006	6,101	150
	2008	4,686	112

	2010	5,189	120
	2012	5,100	110

(Institute for Criminal Policy Research, 2014).

When studying the numbers presented in Figure 3.1 it is important to remember that these are rough estimates. This is due to the fact that there has not been a national census since 1932 and therefore all published research of populations are rough estimates. Moreover, it is important to note that the number of prisoners fluctuates from day to day. This means that the “figures give an indication of the trend but the picture is inevitably incomplete” (Institute for Criminal Policy Research, 2014).

Comparing Lebanese prison statistics provided in Figure 3.1 to statistics of other countries (Figure 3.2), Lebanon does not seem to have a high prison population. However, this is misleading due to the size of Lebanon. Lebanon consists of 10,230 square kilometres, and therefore is much smaller than the countries mentioned in Figure 3.2. However, examining the prison occupancy levels based on official capacity, all the countries mentioned in Figure 3.2 suffer from various levels of overcrowding. Compared to Lebanon (171.8%), however, all countries examined experienced a lower level of overcrowding except Kenya (284.3%). The varying levels highlight that “overcrowding is a central problem in prison management around the globe” (United States Department of State, 2013). Examining the prison population rate it can be deduced that Lebanon suffers from high incarceration rates. In 2006 Lebanon’s prison population rate per 100,000 of national population was 150. This means in 2006 it was higher than that of India, England/Wales, Japan, Nigeria, Australia, Kenya, Turkey and Scotland.

Figure 3.2 Information Surrounding World Prison Populations in 2006:

Country	Prison Population	Population per 100,000	Jail Occupancy level %	Un-Sentenced Prisoners %	Women Prisoners	Country’s Size
U.S.A	2,193,798	737	107.6	21.2	8.9	9.16 million sq. km

China	1,548,498	118	N/A	N/A	4.6	9.16 million sq. km
Russia	874,161	615	79.5	16.9	6.8	17 million sq. km
Brazil	371,482	193	150.9	33.1	5.4	8.46 million sq. km
India	332,112	30	139	70.1	3.7	2.97 million sq. km
Mexico	214,450	196	133.9	43.2	5	1.92 million sq. km
Ukraine	162,602	350	101.3	19.5	6.1	603, 700 sq. km
South Africa	158,501	334	138.6	27.5	2.1	1.22 million sq. km
Poland	89,546	235	124.4	16.8	3	304,459 sq. km
England/Wales	80,002	148	112.7	16.4	5.5	151, 185 sq. km
Japan	79,052	62	105.9	14.7	5.9	374,744 sq. km
Kenya	47,036	130	284.3	45.6	42	569,250 sq. km
Turkey	65,458	91	77.4	47.7	3.3	770,760 sq. km
Nigeria	40,444	30	101.5	64.3	1.9	910,768 sq. km
Australia	25,790	125	105.9	21.6	7.1	7.62 million sq.

						km
Scotland	6,872	134	107.5	21	4.4	78,789 sq. km
Northern Ireland	1,375	79	91.5	37.4	2.2	13,600 sq. km

(Centre for Prison Studies, 2006).

In an attempt to compare Lebanese prisons to prisons of a country of 'similar' size, Figure 3.3 provides some statistics surrounding Cyprus (9,251 sq. km.). Examining Figure 3.3 it is evident that similar to Lebanon, Cyprus faces overcrowding, however prison population rates are lower than that of Lebanon. Lower prison rates could be due to the Cypriot government deferring from handing out prison sentences to minor crimes, or even due to lower crime rates.

Figure 3.3 Cyprus Prison Brief

Prison Administration	Ministry of Justice and Public Order
Prison Population Total (including pre-trial detainees/remand prisoners)	681 <i>(at September 2014)</i>
Prison Population Rate (per 100,000 of national population)	80 <i>Based on estimated national population of 850,700 at the beginning of September 2014</i>
Pre-trial detainees/remand prisoners (Percentage of prison population)	35.7%
Female Prisoners (Percentage of prison population)	7.8%
Number of establishments/institutions	1
Official Capacity of Prison System	480
Occupancy Level (based on official capacity)	112.3%

Prison Population Trend	Year	Prison Population Total	Prison Population Rate
	2000	312	45
	2002	345	48
	2004	546	73
	2006	599	77
	2008	646	81
	2010	637	76

(Institute for Criminal Policy Research, 2014).

3.2 How the Criminal Justice System Functions: The Trajectory of Sex Offenders

This section examines the trajectory of sex offenders through the Lebanese criminal justice system. It therefore examines the literature surrounding the process of arrest, trial, imprisonment and release of sex offenders. Through the examination of the literature it became evident that there were gaps. For example, gaps existed in the literature surrounding the court process and the trajectory of various sex offenders. Examining the existing literature it is evident that it focuses on the arrest, trial and imprisonment of Lesbian, Gay, Bisexual and Transgendered people (LGBT) and/or sex work rather than sex offences as a whole. Such research includes that of the United Nations, HELEM¹² and the World Health Organisation. It is unknown why research tends to focus on sex work and LGBT people, however one possible reason might be due to the public's attitudes. Compared to other sex offences, homosexuality and sex work have 'less of a taboo' attached to them and therefore may be seen to be a more approachable topic. Moreover, the public might view homosexuality and sex work as more of a problem within Lebanese society compared to other sex offences. This might be due to visibility, as sex work and homosexuality are easier to identify.

¹² HELEM: a Lebanese association which aims to "liberate Lesbians, Gays, Bisexuals and Transgendered (LGBT) and other persons with nonconforming sexuality or gender identity in Lebanon from all sorts of violations of civil, political, economic, social, or cultural rights" (HELEM Web site, 2014).

The gaps within the research surrounding sex offences in Lebanon has re-enforced the importance of this study. This study's originality lies in the interviews conducted with criminal justice agents as well as offenders in order to understand the process of arrest, trial, imprisonment and release of sex offenders. The results of these interviews will be discussed throughout Chapters Five and Six.

3.2.1 Sex Offender Laws and Punishments

As was mentioned in Chapter One, a country's punitiveness can vary according to its history, morals and criminal justice structure. One of the first clues of how punitive a country is, are its laws and punishments. Laws can criminalise actions that are not criminal in nature but are against a country's morals, for example, homosexuality. It can therefore be argued that like punitiveness, laws can vary across countries even when countries share many similarities. In relation to sex offences, countries may vary in their legal definitions due to differences in culture and the criminal justice structure.

Within Lebanon, the relation between defining sex offences and the effect of culture and religion has not yet been fully examined. However, the effects of culture and religion within Lebanon's criminal justice system can be seen when religious courts exist and religion results in the criminalisation of acts. For example, one legal article where the effect of culture and religion can be seen is the article criminalizing homosexuality. This section will examine some of the Lebanese laws surrounding sex offences. A full list of the offences can be found in Appendix Four, the laws examined within this section are those which best highlight the effects of religion and culture within Lebanese legislation.

3.2.1.a Adultery

The first article defining a sex offence within the Lebanese Penal Code is Article 487 on adultery. Women accused of violating Article 487 can be (along with the adulterer) imprisoned for a period ranging between three months to two years. If the adulterer is single then the sentence is lessened to a period ranging between one month and one year. This Article classifies women who are cheating as sex offenders, and poses the risk of discrimination and violence against women (OHCHR, 2012). It further reinforces a patriarchal system in which women are criminalised. Moreover, this law perhaps emphasizes the importance of family within Lebanon as well as the importance of religion. The criminalization of adultery and the

administration of harsh punishments on women can be seen to date back to the Assyrian Empire.

Adultery is still criminalised in countries where religion is heavily embedded within their criminal justice system, as both Islam¹³ and Christianity¹⁴ condemn adultery. Such countries include Lebanon, South Korea, Taiwan and the Philippines. Other countries that have decriminalized adultery have done so because they have come to recognize its criminalization as a violation of human rights and a method of discrimination. As Chapter Two has highlighted human rights are rights attributed to protect 'humans' from discrimination, mistreatment, violence and arbitrary detention or imprisonment. Therefore, it is because of the discrimination resulting from the criminalisation of adultery, the United Nations Working Group on Discrimination Against Women in Law and in Practice are fighting for its decriminalisation (OHCHR, 2012). For example, the United Nations Working Group on Discrimination Against Women in Law and in Practice claim that the criminalization of adultery is a violation of Article 17 of the International Covenant on Civil and Political Rights, as it interferes in a person's privacy.

3.2.1.b Rape

In regards to rape, there are several articles that define different types/aspects of rape (See Appendix Four). One example, is Article 503 that states: "anyone who, through the use of violence and/or threats, violates a person *other* than his wife is punished with hard labour for a period of no less than five years" (Lebanese Penal Law). Under Article 503, if the victim is under fifteen years the punishment is amplified to a minimum of seven years. Examining this Article, it is evident the phrasing of the law specifically excludes marital rape, therefore legalizing it. The de-criminalization of marital rape is a result of women being viewed as the property of their husbands. It is also a result of women's failure to grasp/acknowledge its occurrence.

This law (Article 503) is an example of how the patriarchal mentality within society is re-enforced by law as well as religion. Various religious sects, whether Christian or Muslim,

¹³ According to the Quran when a person commits adultery, faith leaves him. The punishment for adultery according to the Quran is 100 flogs.

¹⁴ Adultery is one of the ten commandments "Do not commit adultery, do not murder, do not steal, do not bear false witness, honor your father and mother" (Luke 18: 18-20)

condone the inferior status of women (Ghazi, 1997). However, the inferior status of women within religious texts does not technically allow for violence against women. Instead, violence occurs due to misinterpretations of religious texts. One such text is Surat Al Baqarah 223 within the Quran which states: “Your wives are a place of sowing of seed for you, so come to your place of cultivation **however** you wish and put fourth righteousness for yourselves” (The Quran). It is the misinterpretation of verses such as these that allow Sheikhs within Lebanon to dismiss the criminalization of marital rape. For example, in June 2011, Sheikh Nabil al-Wazza, a media official from the Islamic Association for Preachers reiterated: “the obedience of the wife to the husband is an obligation in Islam. Sharia refuses to consider the coercion of a wife into sexual intercourse as sexual assault; this is the right of the husband”. Wazza based his view on a statement attributed to The Prophet Muhammad, in which he says “if a man invited his wife [to his bed] and she refused the angels will damn her until the morning” (Aziz, 2013). Misinterpretations of religious text can also be found within Christianity especially in regard to text found under Ephesians 5:22-24. Ephesians 5:22-24 states: “wives, submit to your own husbands, as to the Lord. For the husband is the head of the wife, as also Christ is head of the church; and he is the Saviour of the body. Therefore, just as the church is subject to Christ, so let the wives be to their own husbands in everything” (The Holy Bible).

Legalizing marital rape is a violation of Human Rights Article 3 and Article 7. When marital rape occurs, the sense of security and liberty is lost as the victim is no longer safe nor is she/he allowed to say no. In addition to these violations comes the issue of violence used during the rape. The legalization of marital rape provides an example of how a patriarchal culture, which still focuses on religion can be at odds with existing international legislation. “The marital rape exemption denies married women protection against violent crime solely on the basis of gender and marital status” (West, 1990:45).

In addition to legalising marital rape, there is a ‘loophole’ that exempts perpetrators from a prison sentence when examining the Articles surrounding rape (Articles 503-506). Article 522 of the Lebanese Penal Code claims “if the perpetrator proposes to marry the victim, then all charges against him/her will be dropped. However, this will only occur if the marriage has lasted more than three years. If the marriage is dissolved before the three-year time frame then the case can be re-opened and the perpetrator subjected to imprisonment”. This ‘loophole’ is a result of religion and Lebanon’s cultural emphasis on virginity.

Within Lebanon, there is a common belief that the loss of virginity before marriage results in “humiliation, ostracism, divorce and extreme violence” (Awwad, Nassar, Usta et. al., 2013). The importance placed on virginity by religion and culture does not only take away from the women’s right to privacy and un-interfered correspondence (Article 17 of the International Covenant on Civil and Political Rights) but also places victims at risk of forced marriages. Forced marriages to ‘save’ the woman’s honour is a human rights violation within itself.

3.2.1.c “De-virginising”

Article 518 criminalizes taking someone’s virginity under the false pretence of marriage. Punishments under this article include imprisonment for six months and a fine of 100,000 Lebanese Lira (45 British pounds). This does not constitute rape, as the victim might have consented; however it is still a sex offence. This article is another example of the importance placed on virginity within Lebanese culture.

3.2.1.d Criminalisation of LGBT People

Article 512 criminalizes cross dressers and men who enter a designated female place, for example female toilets. Such acts are punishable by a period of six months in prison. This law makes it problematic for transgendered people who identify themselves as women.

Transgendered people within Lebanon are criminalized alongside homosexuals and other LGBT groups as they are seen to be ‘acts against nature’. Article 534 criminalises ‘unnatural acts’ and is therefore generally used to criminalize lesbian, gay, bisexual and transgendered people. Unnatural intercourse is punishable with a prison sentence for a period ranging up to one year. Human rights and international legislation state, “everyone has a sexual orientation and a gender identity” (Amnesty international, 2014). However, “when someone’s sexual orientation or gender identity does not conform to the majority, they are often seen as legitimate targets for discrimination or abuse” (Amnesty International, 2014). This discrimination or abuse leads to human rights violations.

HELEM has attempted to create a social movement in the form of forums and demonstrations that demanded for the decriminalisation of homosexuality. Such movements have created an awareness of LGBT rights, which have been the initial signs of change. A result of this change was when for the first time, in 2014, a judge refused to implement Article 534 that forbids ‘unnatural intercourse’ (Chamas, 2015).

3.2.2 Arresting and Detaining Offenders

It is important to remember that there is a general lack of systematic research surrounding the criminal justice system and the trajectory of sex offenders throughout this system. Therefore, the process discussed within this and following sections may in some cases refer to offenders in general and not specifically sex offenders. The existing research comes in the form of reports conducted by human rights groups and committees.

3.2.2.a Procedure of Arrest

The procedure of arrest is detailed in the Lebanese Code of Criminal Procedure, and includes the Judicial Police and a General Prosecutor. The General Prosecutor orders the arrest while the police arrest the suspect (Human Rights Watch, 2013). Once the suspect is detained the police have forty-eight hours to question him/her before he/she sees an Investigative Judge (Human Rights Watch, 2013). This timeframe can be renewed once under the authority of the General Prosecutor. “The Investigative Judge decides whether the suspect should be released or detained for the duration of the investigation or trial, a decision which the suspect may appeal” (Human Rights Watch, 2013).

The length of detention depends on the crime; if it is a minor offence then a suspect can be detained within prison for two months (Human Rights Watch, 2013). This timeframe can be renewed once. If the offence is deemed to be serious, then the suspect may be detained for a period of six months (also renewable once) (Human Rights Watch, 2013). “However, all suspects previously sentenced to a prison term of a year or more may be held for an unlimited period of time” (Human Rights Watch, 2013:17).

3.2.2.b Detaining Offenders: The Case of Homosexual and Transgendered People

As was previously mentioned, homosexual and transgendered people are criminalised within Lebanon. The detention of LGBT people occurs once they are reported to the police or if the police suspect people. It is common for police officers to stop, detain and investigate ‘perpetrators’ upon seeing or suspecting their homosexuality. For example, in April 2013, a gay club was shut down after men were arrested for being at a gay club. The well known gay-club in Dekweneh (one of Beirut’s suburbs) was closed down by the Mayor Anthony Shakhtoura.

During an interview Mayor Shakhtoura stated:

"I saw twenty-five men outside, or what looked like boys and men. I went inside, I saw people kissing, touching each other and a man wearing a skirt... We saw a scandalous situation and we had to know what these people were. Is it a woman or a man? Turned out to be half woman and half man. I do not accept this in Dekweneh. We didn't fight for and defend this land and our honour for some people to practice these things in my neighbourhood" (Marwan, 2013).

Although it may be argued that attitudes towards LGBT people in Lebanon have slowly started to change due to globalization and social movements initiated by Non-Governmental Organisations (NGOs) such as HELEM; it is the role of religion and Lebanese culture that results in its current criminalization. Numerous religious texts in both Christianity and Islam denounce homosexuality. For example, in the Old Testament Leviticus Chapter 20:13 claims "if a man also lie with mankind, as he lieth with a woman, both of them have committed an abomination: they shall surely be put to death; their blood shall be upon them" (Holy Bible). Within the New Testament The Epistle of Paul the Apostle to the Romans, Chapter 1:27 states "and likewise also the men, leaving the natural use of the woman, burned in their lust one toward another; men with men working that which is unseemly, and receiving in themselves that recompense of their error which was meet" (Holy Bible). The Quran also forbids and condemns homosexuality. There are several verses within the Quran touching upon this topic, for example Surah 7:80-84¹⁵ and Surah 26:165-166¹⁶. Such verses teach that homosexuality is against nature and punishable by death.

In addition to its criminalisation, culture and religion further results in the degrading and violent treatment of LGBT people by the police (See Chapter Two). It is because of culture and religion that many people believe LGBT should be punished, and/or treated harshly. Detainees from the Dekweneh nightclub raid were forced to undress in front of all the officers within the station, while the officers took pictures of them. According to one of the detainees, a transgendered person, the police officers "verbally and sexually assaulted her while she was undressed" (Immigration and Refugee Board, 2014). The sexual assault and harassment of LGBT people, "is a result of the belief that harassment is a means that men use to assert their

¹⁵ Surah 7: 80-84 "...For ye practice your lusts on men in preference to women; ye are indeed a people transgressing beyond bounds... and we rained down on them a shower (of brimstone)" (The Quran).

¹⁶ Surah 26: 165-166 "Of all the creatures in the world, will ye approach males, and leave those whom Allah has created for you to be your mates? Nay, ye are a people transgressing" (The Quran).

authority over women” (Sexual Rights Initiative, 2010). This belief also plays a role in the cases of ‘corrective rape’ of lesbians and transgendered women (Sexual Rights Initiative, 2010).

In addition to this maltreatment, there is a lack of due process within detention centres. Numerous detainees are not given the right to “contact a person of their choosing (a family member, employer, etc.), the right to meet with a lawyer, the right to an interpreter, the right to be examined by a medical doctor upon request and the right to speedy judicial review of their detention” (Human Rights Watch, 2013:36). This was also true for some of this study’s participants. Many participants highlight the police refusing communication with family members and/or lawyers as well as (in one case) withholding medication (See Chapter Five). These actions are a violation of Principles 18 and Principles 19 of the Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment.

3.2.3 Offenders in Court

This chapter was meant to describe offenders’ trajectory through court; however, the gaps in the research proves this task difficult. As was previously mentioned, there are various courts within Lebanon (See section 3.1.3c). This study through its interviews provides insight into the experiences and attitudes of not only sex offenders but also criminal justice agent’s within the criminal justice system (See Chapter Six).

3.2.4 Offenders in Prison

The lack of segregation within Lebanese prisons has made it difficult to conduct any research surrounding sex offenders in prison. Research surrounding prisons are therefore focused on the prison conditions rather than the criminals it holds. What research exists surrounding Lebanese prisons surrounds human rights violations (See Chapter Two).

3.2.5 Offenders Upon Release

It is unknown what happens with sex offenders upon release, as there are no formal monitoring, supervision and/or support systems in place. The only forms of follow-ups are conducted by Non-Governmental Organisations such as AJEM (Association Justice and Mercy). However, these follow-ups are usually restricted to drug users and are not offered to all types of offenders. Sex offenders are therefore simply released back into the community.

While working with the NGO AJEM, a sex offender (who was not part of this study) emphasized this need for support and follow up. This prisoner had been convicted three times for attempted rape and was due to be released. However, he admitted he was nervous about his release, as he was unsure if he would be able to prevent himself from reoffending. He therefore requested to remain incarcerated and/or receive the necessary support on the outside; however, none of the requests were fulfilled.

3.3 The Role of Culture and Religion Within Criminal Justice Systems

When examining the effects of religion and culture on criminal justice systems, the majority of the literature surrounds the role they play in committing crime. This means it looks at how religion and culture results in or restricts crime from occurring rather than the role they play in the criminal justice system. Today, “in forensic psychiatry, cultural factors are also being recognized to be very important, as the number of criminal defendants and civil litigants of diverse cultural backgrounds increase” (Boehnlein, Schaefer and Bloom, 2005:335).

The importance placed on culture is a result of the populations becoming diverse and therefore criminal justice systems having to deal with different cultures and ethnicities. It is for this reason that psychiatrists who specialise in cultural psychiatry are called on for consultations to explain how “culture and ethnicity influence the cognition and behaviour of defendants or plaintiffs” (Boehnlein, Schaefer and Bloom, 2005:335). This is because “culture helps to shape how we think and what we believe” (Boehnlein, Schaefer and Bloom, 2005:335).

As for religion, “religion, is but one of many factors that control theorists might argue “bond” an individual to society and conventional normative behaviour” (Johnson and Schroeder, 2014:2). Many such theorists argue that religion reduces crime, however, this is not always the case. For example, we have recently seen a rise in terrorist actions in the name of religion. Moreover, religion can be seen to encourage crimes if honour crimes are examined.

The focus on religion and culture as a means of explaining crime does not mean that it does not play a role in the criminal justice system. It can be argued that, similarly to how culture influences the cognition and behaviour of defendants or plaintiffs, so does it affect that of criminal justice agents. Judges, lawyers and other criminal justice agents are not immune to the role of culture. Therefore, because culture shapes how we think and what we believe, it can

also shape the beliefs and thoughts of criminal justice agents making them act or deliver sentences based on these beliefs and thoughts. Due to culture, these beliefs and thoughts can result in harsher sentencing, the use of torture by the police and other violations. It can be therefore argued that culture plays a role in every aspect of the criminal justice system, whether trying to understand perpetrators or the actions of criminal justice agents.

Examining religion, the way in which religion has come to be embedded into the Lebanese criminal justice system is evident. This focus on religion is not specific to Lebanon; yet, some countries have managed to distance religion from their criminal justice systems. Distancing religion from criminal justice systems may be a result of the focus on international legislation, human rights and social movements. Moreover, it maybe due to restricting religion to the private sphere rather than allowing it to seep in to the public sphere.

When countries allow religion to enter the public sphere and interfere in criminal justice, laws and punishments may be harsher. This was highlighted when the criminalisation of adultery was examined (See Section 3.2.1.a). In addition to the criminalisation of adultery, countries may also (despite human rights and international legislation) mistreat LGBT citizens due to religious beliefs. This chapter has already highlighted how LGBT face humiliation, degradation and abuse at the hands of Lebanese police officers. However, according to Alvaré (2015), this also occurs in other countries. “Religious opponents of various sexual expression claims are frequently accused of operating largely on the basis of hateful animus against women or lesbian, gay, bisexual, or transgender (LGBT) citizens” (Alvaré, 2015:2). These religious opponents may include lay people, as well as criminal justice agents.

Alvaré (2015:2) argues “religious believers also suffer with the sense that some judges are imposing their own political and moral opinions upon them under the rubric of ‘interpreting the Constitution’”. This argument can be used in order to understand why within countries such as Lebanon some judges can be seen to use harsh sentences on LGBT people while other judges do not. As was previously mentioned, morals can differ according to societies and therefore the extent to which religion is interested in or interferes in a country’s law can also vary. In general, the conflict between religion and law is due to “obligations stemming from a range of different norms” (Zucca, 2015:46). “A classic example is the religious norm that makes it obligatory to wear the Islamic headscarf and the (French) secular norm that makes it obligatory not to wear the Islamic headscarf in public schools. The gist of the conflict between

law and religion can be identified with a conflict of obligations stemming from a range of different norms” (Zucca, 2015:46). In general most countries attempt to separate law and religion, through encouraging religion to play a role in the private sphere rather than the public sphere. “But the problem is that religion is asking for a more visible place in the public sphere” and when it is allowed to do so, problems arise due to the conflict in norms between religion and law (Zucca, 2015:46).

Conclusion

Examining the history of the Lebanese criminal justice system, it is evident that Lebanon has a mixture of Western and Arab influences. Each colonisation and occupation brought with it new people, new ideas and new developments to criminal justice system. The remnants of these colonisations and occupations are still present and include:

- (1) The close connection between law and religion
- (2) The religious courts, which first appeared under the Ottoman Empire
- (3) The similarity of Lebanese Law to old French Penal Codes and,
- (4) The similarity and close ties with the French police.

The role of religion within the criminal justice system was also emphasised throughout the chapter. For example, this chapter has highlighted that Lebanese law is heavily based on religion and in some instances culture. It is because of the influence of religion that sex offences include homosexuality but exclude marital rape. As this chapter has shown Lebanon is not the only country that suffers from religious and cultural effects on criminal justice system. Instead numerous countries also face this issue as culture and religion play a role in determining morals, beliefs and thoughts of people. This means that criminal justice agents are not immune to the effects of culture and religion. Criminal justice systems are intertwined with religion when a country fails to separate religion from the public sphere. Countries where religion plays little or no role in criminal justice systems have managed to ensure that religion is confined to the private sphere. Lebanon (as this chapter has shown) has failed to form such a separation as religion and culture is still embedded within its criminal justice system.

In relation to how sex offenders progress through the Lebanese criminal justice system, this chapter has examined what little research exists surrounding the process. The existing research

tends to surround the arrest and detention of LGBT people and sex workers. Existing research, instead of detailing the process of arrest, detention, court and entering prison focuses on the human rights violations. This information was readily available due to organisations wanting to highlight human rights violations rather than their interest in the process itself. Existing research has shown that there is therefore a need to gather information surrounding the criminal justice process and the role religion and culture play in the process. This study aims to try and fill this gap in research through the dissemination of the findings obtained through the interviews of criminal justice agents and sex offenders. A total of twenty-six sex offenders, eleven lawyers, eight judges, twenty police officers, and ten prison guards were interviewed to help understand the current Lebanese criminal justice system. The next chapter will detail the research methods used to obtain and analyse the data needed for this study.

Chapter Four

Research Methodology

Introduction

This chapter aims to explain how the study surrounding the trajectory of sex offenders through the Lebanese criminal justice system was conducted. The trajectory of sex offenders begins at the point of arrest, and continues through the trial, imprisonment until their release. Through highlighting the process, this study detailed criminal justice agents' and offenders' attitudes and opinions towards the process. In order to grasp a significant picture of the trajectory of sex offenders through the system, this study entailed the interviewing of convicted sex offenders, and several criminal justice agents (i.e. police officers, prison guards, judges and lawyers). This chapter will outline the methodological framework of the study, and highlight the steps undertaken to conduct research in a Third World country where cultural and structural barriers played an important role. In order to successfully carry out this study several steps were taken to ensure ethical approval, access, and successful analysis.

Prior to deciding to carry out this study, I had been a volunteer with AJEM for over a year. As a member of the NGO, I aided them with their various studies (such as those of harm reduction, drugs and crime in Lebanon, etc.) as well as the support they offer to prisoners. Due to criminology being an unfamiliar field, I was considered part of the 'psychology team'. Therefore, alongside my colleagues whom were qualified psychologists, I entered the various Lebanese prisons conducted basic interviews, questionnaires and meetings with prisoners and referred them to the appropriate specialists (i.e. psychologists, psychiatrists, lawyers, social workers and/or doctors). This working relationship was maintained throughout this study, as I continued to volunteer whenever I could. This working relationship not only helped in gaining access when access was difficult but also helped me gain an 'insider' position amongst the prisoners.

Positionality in research is important to consider as each 'position' has its own advantages and disadvantages. According to Merriam et al. "positionality is determined by where one stands in relation to 'the other'" (Merriam, Johnson, Bailey, Lee, Kee, Ntseane and Muhamad, 2001:411). Earlier studies of positionality claimed that a researcher can either be an insider or an outsider

however, recently it has become clear that it is in fact more complex and the “boundaries between the two positions are not all that clearly delineated” (Merriam, Johnson, Bailey, Lee, Kee, Ntseane and Muhamad, 2001:405). Throughout this study although my position was mostly as an ‘outsider’, my previous work with AJEM meant that, at times, I was also considered to be an ‘insider’. My previous work with the NGO (AJEM) resulted in many prisoners viewing me as being on ‘their’ side and knowledgeable of the hardships they face. However, this ‘insider’ position was only to a certain extent as in reality I was an outsider to all my participants.

My position as an outsider was due to the fact that I was a female in a male environment, not an agent of the Lebanese criminal justice system and was not one of the prisoners. Therefore, I did not have many things in common with the study’s participants. According to Fries-Britt and Turner (2001:423), “the more one is like the participants in terms of culture, race, socio-economic class and so on, the more it is assumed that access is granted, meanings shared, and validity of findings assured”. It is because of my position as an outsider that access to participants, and criminal justice agents’ openness to participate was at times a challenge; especially when it came to accessing and interviewing criminal justice agents. In relation to criminal justice agents, being an ‘outsider’ meant that I was a threat, as in their opinion, they were at risk of being reported. My ‘outsider’ position was therefore one of the reasons why criminal justice agents were more cautious of what they were saying. Prisoners on the other hand welcomed my outsider position as it meant that I was independent from the Lebanese criminal justice system and its agents. This ‘outsider’ position therefore meant that that they [prisoners] were more willing to talk openly about their experiences. Further details surrounding access, sampling, power and gender relations and other issues are examined throughout this chapter while using a reflexive approach.

A reflexive approach was important as knowledge is “contextual, situational and specific” which means there are several factors at play such as the gender, race, class and emotions of the researcher (Stanley, 1993:49). Gender, race, class and emotions play a role throughout the whole research process, i.e. from the time a research title is formulated to the data analysis. These factors can influence access, the relationship between participants and researcher, as well as how the data is analysed. This is especially true in ethnographies. According to O’Reilly (2005:211) “ethnographies are constructed by human beings who make choices about what to research, how to interpret what they find and that they do this all in the context of their own

personal biographies". A reflective approach to this study was important for two reasons. The first of which was to examine how I, as a female researcher, could have affected the study process. Secondly reflexivity meant that the transparency and accountability of the study were enhanced, and in return so was the trustworthiness of the study.

4.1 Research Aims and Objectives

Studying the trajectory of sex offenders throughout the Lebanese criminal justice system was challenging for numerous reasons. Some of these reasons were touched upon throughout the various chapters and included the social and cultural taboo that is attributed to the topic. This study aimed to:

- Firstly, explore how the Lebanese criminal justice system deals with sex offenders.
- Secondly, understand why the criminal justice system deals with sex offenders the way it does.
- Thirdly, examine whether this treatment can build on the argument that Lebanon's criminal justice system is a punitive system.

In order to achieve these aims, the study examined the following research question areas with key stakeholders involved in the Lebanese criminal justice system. These included judges, lawyers, police officers and prison staff. Sex offenders were also included in order to achieve a significant picture of the criminal justice process as a whole. The research questions were not based on any theories or a preconceived hypothesis; instead they were composed as a result of the gaps in the research and my own interest in the topic. The thematic questions included:

- (1) How does the Lebanese criminal justice system function?
- (2) What are the opinions/attitudes of sex offenders and criminal justice professionals towards the system?
- (3) What are criminal justice professionals' experiences of, and attitudes towards sex offenders?
- (4) How do criminal justice professionals think offending behaviour could be addressed within the criminal justice system?
- (5) What are sex offenders' experiences of, and attitudes towards the criminal justice system and its agents?

(6) How do sex offenders think the criminal justice system could help them address their offending behaviour?

(7) How does Lebanon fit in to the current global punitive climate?

4.2 Qualitative Research Design

Due to the nature of this study a qualitative study with ethnographic elements was chosen as the study's methodological approach. By definition "ethnography is the study of social interactions, behaviours and perceptions that occur within groups, teams, organisations, and communities" (Reeves, Kuper and Hodges, 2008:512). This study's ethnographic element is therefore due to examining the social interactions, behaviours, and perceptions of criminal justice agents and sex offenders. "The central aim of ethnography is to provide rich, holistic insights into people's views and actions, as well as the nature (that is, sights, sounds) of the location they inhabit, through the collection of detailed observations and interviews" (Reeves, Kuper and Hodges, 2008:512). Throughout the research process, observations surrounding locations of interviews, interactions amongst prisoners, and my emotions were kept in the form of a fieldwork diary. These observations of interactions between prisoners, the locations and the power dynamics helped inform the findings of this study. For example, on June 4th 2013 when visiting Tripoli prison to conduct an interview with a participant the interaction between 'head prisoners' and other prisoners was observed.

Drove to Tripoli prison to interview potential participants. The entry process was normal with prison guards only reviewing my permission, my Lebanese ID and AJEM identity card (both of which they kept with them). Once they took the identity cards, they called for one of the head prisoners to walk me to a room to conduct my interview. There was no space in the usual rooms and so the head prisoner informed me he will get one of the prisoners to put up two chairs and a table in one of the hallways of the prison. I agreed on the condition that he could ensure that no other prisoner would be wandering the hallway or within earshot of the interview. He therefore placed the table and chairs close to the visiting room¹⁷, which was closed and agreed

¹⁷ Visiting room: This is a narrow room where prisoners stand and use a phone to communicate with family members whom are standing on the other side. The prisoners are not able to see family members clearly, due to the screen being made of glass and fence wire. There is also no separation,

to stand at the opposite end of the hallway, outside the gate which separated the hallways and ensure no other prisoners could enter. During the interview, however head prisoners kept walking down the hallway. Despite pausing the interview and/or changing the topic to something more general, it was evident that once head prisoners were approaching my participant became anxious and nervous. He directly whispered that he needs to change the topic, clamped his hands on his lap and avoided eye contact with the head prisoners and me. The head prisoner came back and forth over three times. By the third time I spoke to the head prisoner and asked him to remain outside the gate. It was then that the head prisoner approached me demanding to know what the topic of conversation was. I therefore explained to him, that I was just conversing with him [the participant] like I do with any other prisoner to make sure he is aware of the services AJEM offer. I also informed the head officer that if he wished he too would be able to meet with me and have a conversation surrounding support. He laughed and said no its okay.

Such observations provided me with insight and understanding of how the prison functions, the relationships between head prisoners, prisoners and even prison guards. It therefore aided in understanding what other prisoners were experiencing when they touched upon head prisoners and their control. It further aided with the analysis and dissemination of the findings.

A qualitative research design was important as it allowed participants to describe events in their own words. Allowing participants to do so was important due to the fact that this study aimed to examine their attitudes, experiences and opinions. As a quantitative researcher one might be able to quantify how many cases of corruption occur, or for example the number of different sex offender cases per year within a geographical areas. But in order to examine issues of corruption as well as how sex offences are defined and treated, the insider (human) viewpoint is needed. This is something only qualitative research can do. As Denzin and Lincoln (2005:3) noted: “[Qualitative] research involves an interpretive, naturalistic approach to the world. This means that qualitative researchers study things in their natural settings, attempting to make sense of, or interpret, phenomena in terms of the meaning people bring to them”.

this means that prisoners do not get any form of privacy as the phones are placed close together with no barriers between them.

Allowing myself to immerse into the participants' world was important as it enabled me to truly understand participants' perceptions and attitudes towards the research topic and how they obtained them. Exploring individual understandings, emotions and actions of the world in the participants' own terms allows them to tell their stories and for us as researchers to derive an inductively derived thematic conceptual framework from these stories (Chamberlain, 2013). It is for these reasons that interviews were chosen as the method of data collection.

4.2.1 Interviews

"An interview is a conversation that has a structure and a purpose. It goes beyond the spontaneous exchange of views as in everyday conversation and becomes a careful questioning and listening approach with the purpose of obtaining thoroughly tested knowledge. The researcher defines and controls the situation" (Kvale, 1996:7).

Given my research questions, interviews were chosen as the method to collect this study's empirical data. Using interviews allowed participants some freedom in answering questions, which is clearly important given the underexplored nature of the topic under investigation. The use of interviews also allowed the use of probing questions when needed. Probing was needed when unforeseen areas arose and needed to be explored. However, most importantly interviewing participants face to face increased the likelihood of participation. This was due to the fact that face-to face interviews helped develop rapport and helped participants feel at ease.

The semi-structured interview approach was chosen for this study. The semi-structured interview approach allows a researcher to have pre-set questions in order to obtain "specific information and enable comparison across cases" (Knox and Burkard, 2009:3). Although some questions were pre-set, the intention was to adopt an open-ended approach and ask questions that allowed themes to emerge out of an unfolding conversation between a researcher and their interviewee. As a result of the unfolding conversation, new questions developed according to the respondents' answers. For example, when prisoners had been moved from one prison to the next, I was able to probe and examine whether prison entry processes differed according to the different prisons. This is something I had not taken into account prior to interviewing participants. The use of semi-structured interviews was therefore beneficial as it allowed the freedom to "pursue in more depth particular areas that emerged from each

interviewee” (Hill, Thompson and Williams, 1997:538). Moreover, it allowed for a change in the sequence of the questions being asked. Changing the sequence of the questions (rather than having a strict interview schedule) was important for my study when new issues emerged in conversation. Furthermore, the flexibility of the questions was important when certain questions were seen to be too difficult for a particular participant to answer without building up more rapport. In such situations the use of semi-structured interviews allowed me to ask a different question and come back to the sensitive topic at a later time. This was particularly important given the sensitive nature of my topic. When for example participants did not want to inform me of the reason for their arrest, I moved on to another question and revisited it at a later stage.

Despite these positive aspects, issues naturally arose from the use of semi-structured interviews as it gave participants some reign to divert off topic. The diverting off topic was especially common amongst prisoners and police officers although this occurred for two different reasons. Prisoners diverted onto topics that were unrelated to the study, but which were troubling them. These topics included family and employment issues. This was natural as prisoners are rarely heard and often feel forgotten and/or marginalised, therefore they believed they should take advantage of having someone to listen to them. In addition to these feelings, prisoners tend to view a “researchers presence is that of an outsider with power” (Schollosser, 2008:13). This was especially true when prisoners discovered the research was for a foreign university. It is because of these reasons, prisoner participants attempted to divert conversations and other prisoners (who did not qualify for the study due to them not being sex offenders) were lining up to speak to me. In contrast to prisoners, police officers diverted onto topics of other crimes they have policed in an attempt to ‘show off’. For example, one police officer proceeded to tell me about the time he caught a murderer, and how he came to teach other officers how to catch a murderer.

4.2.1.a Piloting Interviews

A questionnaire was formulated to act as a pilot to the interview questions. The questionnaire examined the attitudes of the public towards sex offences and aided in the formation of the interview schedules in several ways. Firstly, it acted as an exploratory investigation into the understanding of sex offending, and criminal justice. Secondly, it allowed an insight into possible problematic questions, i.e. it highlighted questions participants found difficult to answer due to factors such as taboo. It therefore allowed me to re-visit and re-word some of

the questions. Thirdly, the questionnaire helped me to think about several different questions I had not previously thought about as the pilot revealed interesting data surrounding participants' perceptions of punishments, human rights and definitions of sex offences. For example, it is because participants in the pilot stated a few commonly known sex offences (leaving out numerous other sex offences) that it was deemed interesting to examine interview participants understanding of what constitutes a sex offence. The questionnaires therefore helped design interview questions and identify themes, which were then taken over into the interview. Finally, as was previously mentioned they were used in order to 'fill in some gaps' in the existing research. The questionnaires were initially devised in order to be used as a pilot study to the research however, due to the lack of systematic information surrounding attitudes and opinions of the criminal justice processes within Lebanon; the questionnaire was touched upon at various stages (See Chapter One). Random members of the public filled out a total of fifty-three questionnaires, a copy of the questionnaire is found in Appendix Five.

4.2.1.b Interview Questions

The type of questions used within qualitative research, can vary according to the researcher. Yeschke (2003), for example, focuses on only two main question types, closed questions and open-ended questions. Other researchers on the other hand have numerous different question types that along with open and closed-ended questions include extra questions, throwaway questions, probing questions, direct questions, pointed questions and so forth (Kvale, 1996). The choice surrounding the type of questions differs depending upon the aims of the questions. For example, throwaway questions are usually used to develop rapport with participants, while probing questions are used in a way to "draw out more complete stories from subjects" (Berg, 2007:101). This study's interviews used open questions and probing questions. Open questions or open-ended questions usually start with "who, what, where, when, how and why. They cannot be answered with yes or no" (Yeschke, 2003:162).

Open questions were used as they produce more information than any other type of question (Yeschke, 2003). Furthermore, open-ended questions were beneficial as they allowed the interviewees the freedom to talk without any constraints. However, one problem faced with open-ended questions was the difficulty in getting an interviewee to talk openly, while remaining within the boundaries of the topic. When faced with such issues, probing questions were used.

Probing questions are questions that are used to “provide interviewers with a way to draw out more complete stories from subjects. Probes frequently ask subjects to elaborate on what they have already answered in response to a given question, for example could you tell me more about that?” (Berg, 2007:101). Looking back at the interview process probing questions were very useful due to the sensitive nature of the study that required a bit more encouragement. It is important to note, however, that there is a limit as to how much probing is acceptable. Therefore, when participants refused to answer or showed signs of discomfort, the hesitation was noted and the questions were omitted. This was especially relevant when interviewing police officers; some officers showed signs of discomfort when issues of corruption or the human rights violations came to the surface and often refused to elaborate. In such cases, the interview progressed and these questions were not re-examined with the specific participant.

Reflecting on the formation of the interview questions, the difficulty was trying to word the questions so as not to be implying anything, insensitive, and/or offending to the participants. Moreover, it was essential to ensure that there were no consequences to participating and replying to questions. Several drafts of the interview questions were formulated before they were admissible to Loughborough’s ethical committee. Once ethical clearance was achieved, translation of the interview schedules from English to Arabic was undertaken. This was important due to the fact that numerous participants only spoke Arabic, and although I am fluent in Arabic a sworn translator was essential to ensure translation was ethical and precise. The interview schedules alongside the informed consent and participant information sheet were therefore sent to a sworn translator. This took several weeks as the initial translations had several issues. The issues with translation arose because of several reasons:

- (1) In some instances there are no direct translations; some English words do not exist within the Arabic language and vice versa. When such issues arose, it was important to provide an explanation of the terms in order to ensure that the questions were not lost in translation.
- (2) The first translator misinterpreted some of the questions. For example, “when in prison who chose your cell?” was translated to “when in prison who gave you your cell [phone]?” This occurred several times and therefore after the second attempt a new translator was chosen.

Upon reflection, it would have been beneficial to be present with the sworn translator when translation was taking place. Being present would have ensured that no misinterpretation would occur.

4.2.2 Piloting Interviews

Pilots were also used for each of the interview schedules. “One of the advantages of conducting a pilot study is that it might give advance warning about where the main research project could fail, where research protocols may not be followed, or whether proposed methods or instruments are inappropriate or too complicated” (Teijlingen and Hundley, 2001:1). Within this study, a pilot study was beneficial as it demonstrated feasibility of the interview schedules, helped demonstrate the level of participation and it tested the interview questions. Interview schedules of judges and lawyers were piloted with a lawyer from the organisation AJEM, while two pilot interviews were conducted with prisoners. The piloting of interview schedules highlighted the possibility that most prisoners would deny their crime. As a means to combat this, the wording of the question was altered and in some cases interviews were carried out as if we were talking about a third person. Police officers and prison guards interview schedules were piloted with a Roumieh prison guard.

Once the pilots were completed, the interview schedules were revisited and problematic questions were rephrased or omitted. An example of an omitted question was that surrounding Multi-Agency Public Protection Arrangements (MAPPA). Despite attempting to explain MAPPA, participants could not grasp the concept. This question was therefore omitted. In addition to MAPPA questions surrounding participants’ religious affiliation were omitted. This was due to the fear of it being a barrier to building rapport, this was noticed when pilot participants were hesitant divulging their religious affiliations. Discussing religious affiliations is problematic in a country where religion is still a sensitive topic as a result of the remnants of the civil war. Any focus on religion throughout the thesis was made due to it being brought up by participants during interviews. Moreover, during the pilot it was noted during the piloting of the interviews that other questions surrounding rehabilitation and treatment were also deemed problematic. This was because of the lack of understanding of such concepts. Despite the difficulties, these questions were not omitted due to their importance. Instead, the questions were rephrased and explanations of rehabilitation and treatment were provided.

4.2.3 Interview Sampling

Sampling “consists of selecting some part of a population to observe so that one may estimate something about the whole population” (Thompson, 2002:1). For the purpose of this study, three sampling techniques were used - purposeful sampling, random sampling and snowball sampling. These sampling techniques enabled a successful inductive thematic qualitative data analysis.

Purposeful sampling was used as an initial sampling technique at the beginning of the study before moving on to a different sampling technique. Purposeful sampling is the selection of people who are directly relevant to the research question and who are able to represent the population (Berg, 2007). As already noted the research questions were:

- (1) How does the Lebanese criminal justice system function?
- (2) What are the opinions/attitudes of sex offenders and criminal justice professionals' towards the system?
- (3) What are criminal justice professionals' experiences of, and attitudes toward sex offenders?
- (4) How do criminal justice professionals think offending behaviour could be addressed within the criminal justice system?
- (5) What are sex offenders' experiences of, and attitudes towards the criminal justice system and its agents?
- (6) How do sex offenders think the criminal justice system could help them address their offending behaviour?
- (7) How does Lebanon fit in to the current global punitive climate?

According to these research questions my targeted population had to include professionals from within the criminal justice system (i.e. judges, lawyers, police officers and prison warders) as well as sex offenders. These participants were chosen due to the fact that they provided information on the criminal justice system at key points in the process of dealing with sex offenders; from capture to prosecution to being in prison and then on release into the community. Purposeful sampling was therefore used to obtain members of the police force, and prison officers as only people who had been involved in the arrest and detention of sex offenders were interviewed. Figure 4.1 present some information regarding police officer and prison guard participants.

Figure 4.1 Police Officer and Prison Guard Participant Information:

	Job	Gender	Age	Experience	Education	Extra Training	Contact With Sex Offenders
Police Officer 1	Moral ¹⁸ Police Officer	M	46-55	Member of ISF for 20 years	BA in Law + Masters in Diplomacy and Strategic Management	International Training (i.e. travelled to countries to attend trainings)	Arrested + investigated + interrogated sex offenders
Police Officer 2	Police Officer	M	26-35	Instructor in police academy + previously a member of investigation unit	Law Degree	Worked alongside American Officers	Arrested sex offenders
Police Officer 3	Senior Police Officer	M	36-45	Member of ISF for 25 years	Unknown	Unknown	Arrested + investigated + interrogated sex offenders
Police Officer 4	Police Officer	F	26-35	Member of ISF for 1 year	Unknown	Unknown	No contact with sex offenders
Police Officer 5	Police Officer	F	18-25	Member of ISF for 1 year	Unknown	Unknown	No contact with sex offenders
Police Officer 6	Police Officer	M	46-55	Unknown	High School	Military School + International Training	Arrested + interrogated sex offenders
Police Officer 7	Police Officer	M	36-45	Member of ISF for 7 years	2 years Law at University	No Training	No Contact with sex offenders, believes there are no sex offenders
Police Officer 8	Police Officer	M	26-35	Instructor in police academy + rotated amongst different	Law Degree	Worked alongside American Officers	Arrested + investigated sex offences

¹⁸ Moral Police refers to a branch of policing within Lebanon whom primarily deal with crimes against morality. For example, prostitution, homosexuality and human trafficking. This force is usually compared to the much stricter religious police found in Saudi Arabia.

				police stations			
Police Officer 9	Police Officer	M	36-45	Member of ISF for 6 years	High School	Attended Peaceful Interviewing Course	No contact with sex offenders
Police Officer 10	Police Officer	M	36-45	Unknown	University Degree	Unknown	Investigated sex offences
Police Officer 11	Police Officer	M	36-45	Member of ISF for 2 years + rotated amongst different police stations + prison guard for 3 days	Completed 1 year of university	International Training	No contact with sex offenders
Police Officer 12	Police Officer	M	26-35	Member of ISF for 23 years	High School Diploma	International Training	Watched the investigation of a sex offender
Police Officer 13	Police Officer	M	36-45	Member of ISF for 2 years + Rotate	University Law Degree	Basic Training	No contact
Police Officer 14	Police Officer	M	36-45	Member of ISF for 19 years + 2 years as Roumieh prison guard + rotated amongst different police stations	Completed 1 st year of university	Basic Training	Contact with sex offenders in prison + arrested + investigated sex offenders
Police Officer 15	Police Officer	M	36-45	Member of ISF for 21 years + rotated amongst different police stations	Completed 1 st year of university	Unknown	Arrested + investigated sex offenders
Police Officer 16	Police Officer	M	26-35	Member of ISF for 22 years + rotated amongst different police stations	University (did not complete it)	Unknown	Arrested + investigated sex offenders
Police Officer 17	Investigation Officer	M	36-45	Member of ISF for 21 years + 2 years as a prison guard + rotated amongst different police stations	High School (not completed)	Basic Training	Arrested + interrogated sex offenders

Police Officer 18	Police Officer	M	26-35	Member of ISF for 22 years	High School (not completed)	Basic Training	No contact
Police Officer 19	Police Officer	M	36-45	Member of ISF for 18 years + rotated amongst different police stations	High School (not completed)	Unknown	No contact
Police Officer 20	Police Officer	M	26-35	Instructor in police academy	Law Degree	Worked with American Officers	Arrested + Investigated + interrogated
Prison Guard 1	Prison Guard	M	36-45	Member of ISF for 17 years	High School	Unknown	Only in Prison
Prison Guard 2	Prison Guard	M	26-35	Member of ISF for 6 years, 5 years as prison guard	4 th year law	Basic Training	Not much contact
Prison Guard 3	Prison Guard	M	36-45	Member of the ISF for 17 years	High school diploma	No training	Only in prison
Prison Guard 4	Prison Guard	M	26-35	Member of the ISF for 6 years	High school Diploma	Basic training	No contact
Prison Guard 5	Prison Guard	M	26-35	Member of ISF for 1 year and 4 months. 9 months as prison guard	University (not completed)	No training	Little contact in prison
Prison Guard 6	Prison Guard	M	26-35	Prison Guard for 4.5 years + 6 months in police station	University law degree (on-going)	Basic training	Only in prison
Prison Guard 7	Prison Guard	M	36-45	Prison guard for 5 years	University Degree	Basic training	Only in prison
Prison Guard 8	Prison Guard	M	46-55	Member of ISF for 20 years, 3 years as prison guard	High School Diploma	Basic Training	Only in prison
Prison Guard 9	Prison Guard	M	36-45	Member of ISF for 8 years, 2 years as a prison guard	High School	No Training	No contact
Prison Guard 10	Prison Guard	M	36-45	Member of ISF for 12 years, 5 months in station	High School	Unknown	Contact in prison + police station

A total of thirteen police officer stations were contacted to participate in this study. However, four 'head of stations' claimed they (as a police station) had never dealt with sex offenders and refused participation. The stations contacted included: Hbeish, Achrafiyeh, Dekweneh, Jounieh, Jdeideh, Bekfaya, Broummana, Sin El Fil, Baabda, Zgharta, Tripoli, Zahle, and Saida. Figure 4.2 provides a map of Lebanon to familiarise the locations of these stations. It is important to remember that there are numerous other stations scattered across Lebanon which were not accessible due to the unstable situation.

Figure 4.2 Map of Lebanon



(Nations Online Project, 2016).

Figure 4.3 Map of Prisons in Lebanon



(Lebanese Centre for Human Rights, 2008).

In regards to sex offenders, a total of five prisons were included in the study (See Figure 4.3). Similar to police stations, there were several other prisons that were not included in this study due to them being situated in unstable areas. The five prisons included within the study were Rourieh Prison, Byblos, Zgharta and the male and female prisons located in Tripoli (See Figure 4.3). Including six prisons meant that there were a large number of potential participants; therefore random sampling was carried out. However, the number of potential prisoner

participants was not big enough to conduct a simple random sample where random digits were used. Therefore, “the fishbowl draw” was used instead (Kumar, 1996:155). The list of potential participants on which ‘the fishbowl draw’ would be applied to was achieved through the help of prison governors and members of the NGO AJEM.

AJEM was very helpful in obtaining numerous participants in the various prisons across Lebanon. This enthusiasm to help was due to our pre-existing working relationship and also due to the fact that through this study, AJEM was able to provide support for the previously ignored groups of sex offenders. As was previously mentioned, I had developed a working relationship with AJEM prior to the decision to conduct this study. It is because of this working relationship, AJEM was appreciative and helpful during this study. Within Roumieh and Byblos prisons, AJEM provided a list of potential participants. This list was updated with the new arrivals of sex offenders to the various prisons since AJEM is immediately notified when new prisoners enter.

It is important to note that within the official permissions (See Section 4.3) prison administrators were instructed to provide a list of names of potential participants. However, this did not occur within all prisons. For example, within Roumieh and Byblos the prison administration were unhelpful in providing participants. In fact it was only in Zgharta and Tripoli, that the prison governors provided a list of convicted sex offenders. It is unknown why some prisons governors were helpful and others were not, however one possible explanation might be due to the level of involvement of the prison administration within the prisons.

Despite whether the individual names of these potential participants were achieved through AJEM or prison administrations, they were all subjected to ‘the fishbowl draw’. This meant that all the participants’ names were written on separate slips of paper, and then placed into a box. Once all the names were collected, names were then picked out one by one without looking. To begin with a total of ten names were drawn, but by the end of the interviewing stage a total of twenty-six participants were included in the study. Figure 4.4 provides details surrounding participants nationality, age, crime and length in prison.

Figure 4.4 Prisoner Participant Information:

Prisoner	Gender	Age	Nationality	Crime	Sentence	Time in Prison	Education
Prisoner 1	M	26-35	Lebanese	De-virginizing	Un-sentenced	7 months	High School
Prisoner 2	M	26-35	Syrian	Rape	Un-sentenced	6 months	High School
Prisoner 3	M	36-45	Lebanese	Enabling Prostitution + Drugs	Un-sentenced	6 months	High School
Prisoner 4	M	18-25	Syrian	Kidnapping a juvenile + De-virginizing	Un-sentenced	3 months	Uneducated
Prisoner 5	M	26-35	Syrian	Enabling Prostitution + Drugs	Un-sentenced	6 months	High School
Prisoner 6	M	46-55	Syrian	Molesting Daughter	Un-sentenced	1 year 3 months	Primary School
Prisoner 7	M	36-45	Syrian	Pimping	Un-sentenced	3 months	High School
Prisoner 8	M	18-25	Lebanese	Paedophilia	Un-sentenced	8 months	University
Prisoner 9	M	46-55	Palestinian	Paedophilia + Murder	Life Sentence	28 years	Uneducated
Prisoner 10	M	66-75	Lebanese	Rape of daughter/incest (denied crime)	Sentenced 7 years	1 year	Uneducated
Prisoner 11	M	26-35	Syrian	Attempted Rape + Murder (denied the attempted rape accusation)	Death Sentence	2 years	High School
Prisoner 12	M	36-45	Syrian	Rape + Murder (denied Rape accusation)	25 years	10 years	Uneducated
Prisoner 13	M	46-55	Lebanese	Rape + Murder (denied Rape accusation)	Not Sentenced	2 months	High school
Prisoner 14	M	18-24	Lebanese	Attempted Rape	Not Sentenced	1 year	Primary School
Prisoner 15	M	26-35	Syrian	Rape (denied accusation)	Not sentenced	2 months	Uneducated
Prisoner 16	M	36-45	Egyptian	Pimping	Not sentenced	5 months	Primary School
Prisoner 17	M	46-55	Palestinian	Incest + Kidnapping	Not sentenced	6 months	High School
Prisoner 18	M	26-35	Lebanese	Rape (denied it and claimed	Sentenced 7.5 years	7 years and 4	High School

				was in on a drug offence)		months	
Prisoner 19	M	26-35	Syrian	Enabling Prostitution	Sentence Unknown	4 years	Primary
Prisoner 20	M	36-45	Lebanese	Paedophilia + Murder (did not mention paedophilia accusation)	Sentenced 3 years and 25 days	2 years	High School
Prisoner 21	M	26-35	Syrian	Pimping	Un-Sentenced	7 months	Uneducated
Prisoner 22	M	26-35	Syrian	Pimping	Un-Sentenced	4 months	High school
Prisoner 23	F	36-45	Syrian	Prostitution	Un-sentenced	Unkno wn	High school
Prisoner 24	F	56-65	Syrian	Prostitution	Un-sentenced	Unkno wn	Unknown
Prisoner 25	F	26-35	Lebanese	Prostitution (claimed set up by husband + is a rape victim)	Un-sentenced	6 months	High school
Prisoner 26	F	36-45	Lebanese	Adultery	Un-sentenced	Unkno wn	Primary School

Judge and lawyer participants were obtained through the use of snowball sampling. Snowball sampling “allows the researcher to secure initial contact with a member of the sample population (in this case either a judge or lawyer) who subsequently leads the researcher to other members of the same population” (May, 1997:94). To begin with, a meeting was arranged with a lawyer from the Non-Governmental Organisation ‘AJEM’ who (after explaining the study) provided me with a list of names of potential judicial and legal participants. The names given were of judges and lawyers whom she knew or believed to have presided over or defended sex offender cases. Moreover, in addition to the AJEM lawyer, corporate lawyers who were business associates of my father were approached. This is a form of opportunistic sampling which was used because of the difficulty in obtaining participants. Although corporate lawyers do not deal with sex offences, they added further names to the list of potential judicial participants. The names provided by corporate lawyers tended to be their acquaintances or professional friends.

Due to the nature of their jobs, initial contact with judges and lawyers was done through telephone conversations. During these conversations, the study was explained and I enquired whether they were willing to participate in this research. In some instances, judges and lawyers refused to participate or informed me that they had never been in contact with sex offenders.

The reason for the lack of willingness to participate might have been due to several factors that included the lack of interest in the topic, the taboo associated with sex offences and/or fear of consequences of participation. This fear was present despite re-assuring potential participants (via the initial phone call) that they would remain anonymous.

Because numerous judges and lawyers refused to participate, snowball sampling was further used with the participants obtained. Therefore, at the end of each interview, judges and lawyers were asked if they could think of other potential participants. In some cases, no enquiry was needed and participants directly offered a list of names and contact details of potential participants. Snowball sampling was extremely beneficial as it allowed access to a “population which is extremely hard to access and quite tightly defined” (King and Horrocks, 2010:34). In total eleven lawyers and eight judges participated in the study. Figure 4.5 provides some details surrounding judges and lawyers who participated in the study.

Figure 4.5 Judge and Lawyer Participant Information:

	Gender	Age	Experience	Education	Contact with sex offenders
Lawyer 1	F	36-45	12 years a lawyer + NGO work (with three different NGOs)	Law degree from a Lebanese University	Dealt with sex offenders but not represented any
Lawyer 2	M	36-45	18 years a lawyer + worked on Human Rights + worked with amnesty international + worked on judiciary magazine	Law Degree from France	Mostly worked on prostitution and homosexuality cases
Lawyer 3	M	46-55	31 years as a lawyer + member of parliament + experienced in human rights law + member of the law committee	Law degree from Lebanese university + completed a PhD. in Paris	No contact
Lawyer 4	M	46-55	22 years as a lawyer	Law degree from Lebanese university	Little Contact
Lawyer 5	M	46-55	18 years as a lawyer + member of International Prison Watch	Unknown	Worked on sex offender cases
Lawyer 6	M	46-55	28 years as a lawyer	Law degree from Lebanese university	Worked on sex offender cases

Lawyer 7	M	66-75	40 years as a lawyer	Law degree from Lebanese university	Represents victims of sex offences
Lawyer 8	M	26-35	10 years as a lawyer	Law degree from Lebanese university	Represented few sex offender cases
Lawyer 9	M	56-65	38 years as a lawyer	Law degree from Lebanese university	Little contact
Lawyer 10	M	46-55	20 years as a lawyer	Law degree from Lebanese University	Unknown
Lawyer 11	M	66-75	41 years as a lawyer	Law degree from Lebanese University	Represented sex offender cases
Judge 1	M	76-85 (retired)	Diplomat + lawyer for 4 months + 40 years as a judge + presided over several courts	Law degree from Lebanese University	Numerous cases
Judge 2	M	45-55	Unknown	Law degree from Lebanese University	Few cases
Judge 3	M	46-55	Unknown	Attended university in Paris + completed law degree from Lebanese University	Few cases
Judge 4	M	66-75	University teacher + attended international training by UN and other Arab countries + 40 years as a judge + presided over various courts	PhD in law from a Lebanese University	Few cases
Judge 5	M	56-65	17 years as a judge + presided over various court	Law degree from a Lebanese university	Numerous cases
Judge 6	M	36-45	7 years as a judge	Masters in criminal law + Law degree from a Lebanese University	Few cases
Judge 7	M	46-55	16 years as a judge	Law degree from a Lebanese university	Few cases
Judge 8	M	46-55	10 years as a judge	Law degree from a Lebanese university	Few cases (like 3 or 4)

The number of participants depended on when theoretical saturation was achieved. "Saturation means that no additional data are being found, whereby the researcher can develop properties of the category" (Flick, 2002:65). Theoretical saturation was achieved once twenty police officers, ten prison guards, twenty-six prisoners, eleven lawyers and eight judges were interviewed. These interviews were conducted February 2013 through to August 2013. This timeframe was extensive due to issues gaining access and the situation within prisons and the country as a whole.

4.3 Gaining Access: the Use of Connections

Entering a prison to conduct qualitative research is difficult in any circumstance. Generally, it is difficult because individuals within prisons are considered 'high risk' or 'vulnerable subjects' who need protection, which in some cases "hinders scientific inquiry" (Schlosser, 2008:3). Within countries such as Lebanon, which is in nature a Third World country, several other issues arise. Some of the issues faced within this study included: issues with gaining access, safety, gender, and in some circumstances taboo.

In an attempt to reduce the barriers to the study, it was essential to make connections prior to the study. These connections were important for two reasons (1) to overcome barriers resulting from studying a taboo topic (2) to gain access to participants. There are numerous topics that are considered to be taboo in Lebanon, crime and sex being two major ones. It is due to this taboo that barriers are present in the reporting, and the dealing with sex offenders. Moreover, the taboo associated with sex offending results in the use of honour crimes to cover up the 'family shame' of being a victim of such offences and, the lack of care and treatment of sex offenders.

From a methodological standpoint, studying a topic laden with taboo made it difficult to access participants, and hindered people's participation. Making connections with the right people was therefore important to obtain access and conduct interviews. Namedropping and the use of connections to ease gaining access is not restricted to Lebanon. Early sociologists report that "their research freedom was conditioned by several factors and this generally meant being 'connected' either through friendship, employment, or other reference" (Trulson, Marquart

and Mullings, 2004:454).

The first 'connection' used was General Wahib Neaime, an ex- military general whom I had previously worked with. General Wahib Neaime (prior to my arrival in Lebanon) laid the groundwork and arranged several meetings with the Ministry of Defence, which he attended on my behalf. Through these meetings a formal letter from the Ministry of Defence was obtained which granted permission for this study. Although these permissions were meant to be approved and ready to use upon arrival, several issues arose which resulted in delays.

Firstly, the permission that was meant to include the interviewing of prisoners as well as prison guards only allowed the interviewing of prison guards of one prison. This meant that another meeting had to be arranged to include prison guards, prisoners, and police officers from various prisons. This was time consuming, as it required several visits. Permissions were also incomplete at times as the Ministry of Defence had promised to include several police stations however, when the permission was ready to be collected there was no mention of police stations. The same problem was faced in relation to prisons, as the permissions did not mention which prisons were accessible. Permissions therefore, needed to be regularly updated to include several other police forces and prisons across Lebanon. Every time the permission needed updating, it took no less than three weeks. These issues resulted in several delays to the data collection. It is important to note that despite the delays and issues with the permissions, the permissions would not have been granted were it not for the persistence of General Neaime. General Neaime, due to his prior status within the Lebanese army had significant authority within the government and therefore out of respect to that authority, the Lebanese government granted me permission.

Similar to General Neaime, AJEM (headed by Father Hadi Ayya) played a vital role in helping gain access to participants. AJEM's role was somewhat different to that of General Neaime in that members of AJEM acted as informants. Informants are important when conducting research with subcultures such as criminals, deviants, juvenile gangs, and inmates (Maxfield and Babbie, 1995). "The word informant is normally used to refer to someone who helps make contact with subcultures" and AJEM did just that (Mafield and Babbie, 1995:251). As was previously mentioned, AJEM colleagues provided me with a list of potential participants at various points of the study. In addition to helping provide names, Father Ayya's connections were used at various points. For example, Father Ayya aided in gaining access to prisons that

were denying me access despite the approved permission. This lack of access despite approved permission is common when researching within prisons. As Trulson et al. (2004:453) highlighted “while getting access means that the researcher gets in the door, getting in the door does not ensure that the researcher will be privy to the necessary ‘data’ to make the research successful”. It is because of such issues that it was important to ensure the connections made at the beginning of the study remained strong throughout the whole research process.

The need for connections such as General Neaime and Father Hadi Ayya were important due to Lebanon’s culture of ‘*wasta*’ (connections) a system similar to that known in France as ‘du piston’ i.e. knowing somebody in a position of influence or within the UK as the ‘old boys network’. Without such connections, access to participants would have been extremely difficult if not impossible. This over-reliance on connections is evident throughout Lebanese culture. Chapter Two has highlighted how people can use ‘*wasta*’ in order to obtain stricter or more lenient sentences from judges, however ‘*wasta*’ is also used in several social arenas. “*Wasta* is the magical lubricant that smoothes the way to jobs, promotions, university places and much else even if you are not qualified... in fact, with the right connections, it can solve almost any kind of problem” (Ahmad, 2013).

In the case of this study, *wasta* was used positively in order to humanise bureaucracy and make it easier to gain access. However, in some cases there was a negative effect of using *wasta*. This was evident when there was a general lack of enthusiasm by many police officers and prison guards. Many of the police officers and prison guards acted as if they were forced to participate, despite explaining that they were able to refuse participation and would be able to stop the interview if they wished to do so. All participants continued with the interviews however, some of these interviews were lacking in detail and explanations despite probing. Because of such experiences, it can be concluded that some police officers and prison guards, due to the use of connections, felt forced to participate in the study. Reflecting back, if there had been no time constraint I would have attempted to achieve participants without the use of connections through persistence and ensuring a wider range of police stations and prisons are visited.

4.3.1 Gaining Access to Police Officers

Official permission to access police officers was granted on the condition that I had to personally ring stations in order to enquire as to whether they had come into contact with sex offenders. This condition was put in place due to the fact that the Ministry of Defence did not want to grant permission to enter all stations across Lebanon. Instead, they wanted me to provide a list of potential stations, which they [the Ministry] later specifically named in the official permission. The list of police stations was small due to several reasons:

- (1) Numerous police stations claimed they were too busy to participate.
- (2) Numerous stations did not answer the phone to arrange an initial meeting. Similar to the judges and lawyers, police stations might have refused participation due to the taboo surrounding sex offences as well as due to the fear of being held accountable.
- (3) Numerous stations claimed they have not had any contact with sex offenders and therefore could not participate in the study. This may be true due to the fact that numerous sex offences go unreported within Lebanon and therefore many officers may have never encountered sex offences.
- (4) Some stations could not be included due to the fragile security situation within Lebanon. Such police stations included those situated in the far North and South of Lebanon. The inability to include all stations across Lebanon could result in a misrepresentation, as perhaps the excluded areas have experienced more exposure to sex offences.

Once achieved, the permission stated that I was not to contact the police stations, instead stations were meant to contact me on their own accord. There was some confusion as some stations did not call or were confused as to what they had to do. For example, the first station to contact me, was perplexed as to whether the head of the station was required to aid me with forming initial contacts with other stations or not. This confusion highlighted a lack of communication between the Ministry of Defence and the police stations and its officers. Further evidence of lack of communication between the Ministry of Defence and police stations occurred when the heads of stations claimed they had not received the permissions. Although I always carried a copy of the permissions with me, stations did not accept my copy. Therefore, interviews could not be conducted before the head of the stations received the permission from the Ministry of Defence. This resulted in a constant delay.

Another re-occurring problem was the rescheduling of arranged meetings. Some stations constantly rescheduled and tried to avoid setting up meetings by failing to reschedule and claiming they will 'get back to me' with a date. It, therefore, sometimes took months of persistent follow-ups before a meeting was successfully arranged. When stations continuously rescheduled, connections (*wasta*) were used once again.

4.3.2 Gaining Access to Prisons

As was previously mentioned, not all prisons across Lebanon were accessible due to the tense and sometimes unstable situation within Lebanon. Moreover, some prisons were excluded due to the lack of sex offenders. As was mentioned in Chapter Three, Lebanon has twenty-one prisons distributed all across Lebanon. Therefore, as a timesaving technique, I referred to AJEM colleagues surrounding which prisons had incarcerated sex offenders as they [AJEM] have access to a list of offenders within all twenty-one prisons. Once AJEM had provided me with the list of prisons. A request was submitted to the Ministry of Defence to obtain official permissions. Once the Ministry of Defence granted the permissions, an initial meeting was arranged with the Governor of Lebanon's largest prison Roumieh to discuss the study. This process was then repeated with the various prison Governors; such meetings are essential in any-prison based research. In general, prison Governors were easily accessible and welcoming with the exception of Roumieh Prison's Governor who kept postponing meetings claiming he was too busy. The meeting only occurred after I resorted to AJEM founding father Father Hadi Ayya who personally approached the Governor to arrange a meeting. This meeting was important as "at the very least you, as an individual researcher within a university or other appropriate body, will need the permission of the Governor and most likely also that of the Head of Psychology and the permission also of the Regional Psychologist if your research is to take place in one region" (Davies, 2011:164).

During these meetings, prison Governors were provided with details surrounding the study and the official permission obtained from the Ministry of Defence was examined to establish ground rules. Usually when such research is conducted, a standard application form is usually needed alongside other documents such as "your questionnaires, ethics approval, consent forms, CVS, etc." (Davies, 2011:164). Within Lebanon the prison Governors did not require such documents, as they were only interested in the official permission. The focus on the official permissions was due to the fact that it acted as a safe guard, thereby protecting the prison

Governors and Wardens from any issues that may have resulted from allowing a researcher into prison. Moreover, the permissions provided Governors with guidelines as to what the researcher was allowed to do and whom he/she was allowed to talk to within the prison. For example, the Ministry of Defence allowed the use of a voice recorder within prisons. However, despite its guidelines, not all prison Governors agreed with the permission to use recorders and therefore most interviews were hand written. It is because of such occurrences, it is always important to be flexible and able to adapt when conducting research within the prisons. It is important to note that prison Wardens and Governors did not participate in this study, this was due to the permissions not mentioning their names personally and therefore resulting in their refusal to participate. Trulson et al. (2004:457) highlighted "it should hardly cause surprise to learn that those who supervise and manage the kept do not initially welcome scholars and other outsiders into their institutions to poke about for largely self-serving research interests".

4.3.3 Gaining Access to Prison Guards

After several meetings with General Neaime and the Ministry of Defence, access to prison guards was granted. The prison guards were selected according to the prisons mentioned within the Ministry of Defence's permission slip. These prisons therefore included, Roumieh Prison, the male and female prisons located in Tripoli, Byblos, and Zgharta. As was previously mentioned, prisons and police stations situated in the South of Lebanon and far north were excluded due to security reasons. Within each of the five prisons (Roumieh, Tripoli (Male and Female prisons), Byblos and Zgharta) Governors provided me with access to the prison guards. However, within Roumieh this process was more complex due to the fact that it is composed of four buildings each of which had its own 'block Warden'. It is for that reason meetings with each of the block wardens took place to negotiate potential participants. However, two of the four blocks within Roumieh were inaccessible, Block D and B. Block D was inaccessible due to renovations, while Block B was inaccessible due to security issues and the fact that it housed accused terrorists who, at the time, were causing unrest within the prison block.

Prison Guards from Roumieh prison were therefore from blocks A and C, however they were not randomly chosen. The inability to randomly choose prison guards was as a result of the prison Governor and prison block Wardens insisting on assigning participants to me. It is unknown on what basis these guards were selected to speak to me. However, they may have been chosen according to availability and their unwillingness to over divulge information. It is

possible that the guards were chosen in order to provide me with information. Governors and Wardens wanted me to have rather than their willingness to convey the reality of prison life. It is because of this that prison guard narratives need to be considered with caution as it is unknown how accurate they are. Questioning the accuracy of accounts does not however make the study any less valid.

4.3.4 Gaining Access to Judges and Lawyers

Access to judges and lawyers was easier than that of the police, prisoners and prison guards due to the fact that no governmental permission was needed. As was previously mentioned, AJEM, cooperate lawyers and General Neaime all played a large role in helping gain access to this group of participants. AJEM provided access to lawyers and judges within the organisation. However, even with their help, the participant rate was extremely low and therefore snowball sampling was needed.

4.4 Building Rapport and the Role of Power

Prisoners are considered to be vulnerable, and due to their situation (incarceration) they may not easily connect with people therefore hindering rapport building (Bosworth et. al, 2005). Developing rapport refers to “developing a positive relationship” with the interviewee and ensuring that they feel safe and comfortable throughout the interview (DiCicco-Bloom and Crabtree, 2006:316). Rapport is important because not only does it ensure that there is a level of trust between the researcher and participants but it also reduces the feeling of intimidation. Reducing the sense of intimidation reduces the risks of participants’ refusal to participate.

Working with AJEM was both an advantage and disadvantage. Some prisoners were more open to participation due to my affiliation to AJEM while others refused to attend any meetings. When participants were willing to participate it was usually due to AJEM’s role in helping prisoners with legal, social, medical and psychological services. Moreover, “the known presence of a researcher may lead to the belief that the researcher is there to monitor, change, or document conditions that inmates view as favourable or unfavourable” (Trulson, Marquart and Mullings, 2004:457). Some prisoners therefore welcomed the opportunity to talk to me as a researcher. However, this was not true for all prisoners, as was previously mentioned, in some instances prisoners refused to meet and or participate as they claimed they did not trust

the organisation and did not want to meet anyone affiliated with them. When such problems arose, new participants were randomly selected.

Building rapport with participants is not always as straightforward as one would hope and sometimes it may take more time to do so than previously thought. This is especially true with prisoners. Several studies have provided guidelines to help build rapport with research participants. For example, feminist researchers “tend to emphasize the importance of reciprocity, egalitarianism and sharing in research” (Bosworth et. al., 2005:17). These three words were extremely important in developing rapport with participants.

- (1) Reciprocity: the introduction of AJEM to the participants was important for reciprocity. Although I was not able to provide participants with any material objects, participants were informed that if they needed any social, medical and/or legal assistance AJEM would be able to help. The option to confer with AJEM for help was provided to all prisoner participants, despite whether I had previously worked with them or not. In cases where I could not provide any services, reciprocity took the form of ‘reciprocal dialogue’ in which I as a researcher and the study participants spoke as equals.
- (2) Egalitarianism: All participants were treated equally throughout the study. It therefore did not matter whether they were prisoners, judges, lawyers or police officers and prison guards. They were all spoken to in a neutral tone of voice, and provided the same opportunities to participate.
- (3) Sharing: All participants (prisoners, police officers, prison guards, judges and lawyers) were informed that if they wished to have a copy of the study it would be provided to them. Allowing them to receive a copy of the findings helps participants relax as it ensures that I (as a researcher) convey the truth, ‘their truth’.

Another way of developing rapport was through the use of AJEM’s assessment for newly entered prisoners (Appendix Six). The assessment was key for developing rapport with prisoners as well as providing AJEM with information surrounding a previously ignored prison population. AJEM requested help in filling assessment forms with new prisoners, specifically sex offenders whom they do not usually deal with. Completing this task aided in maintaining a

good working relationship with AJEM. In relation to developing rapport, the assessment helped ease the way into my research topic. The questions within the assessment were non-threatening questions, therefore allowing participants to feel more at ease. An example of the questions included: “do you have any brothers or sisters?.” (Appendix Five) The assessment examined aspects of prisoners’ family life, their psychological situation and their experience within prison. The enquiry into these aspects gave participants the chance to discuss their histories; this made them more willing to participate in the study as it gave them a chance to tell their stories from the beginning.

In addition to AJEM’s assessment, the introductory questions within this study’s interview schedules such as “can you tell me a bit about yourself?” played a vital role. Allowing the interviewee to provide details surrounding his/her life ensured rapport, as they knew someone was listening to their story; that someone cares. This is important to prisoners, as they are often left feeling alone. Introductory questions were present within the various interview schedules (i.e. that of prison guards, police, lawyers and judges). In addition to introductory questions, another way in which rapport was built was through asking easy (non-sensitive) questions at the beginning of the interview.

4.5 Power and Gender Relations

Kvale explains an interview “is not a conversation between equal partners” (Kvale, 1996:5-6). This is why it is important to examine power relationships as they may have an effect on the interviewing process. There are several factors that result in unbalanced power relations. These factors include: body language and attire, participants’ jobs, gender, and the location of interviews. Throughout this study, interviews were kept as collaborative as possible and therefore participants were seen as equal partners throughout the interaction. However, this was difficult at times due to the nature of the participants (i.e. their incarceration or their jobs). Because of the nature of the participants, power relations varied amongst each group. Judges, lawyers, police officers and prison guards for example are naturally empowered due to their occupation, while prisoners tend to be more vulnerable. Despite this, it was important to ensure that neither parties (i.e. myself and interviewees) were intimidated throughout the study.

4.5.1 Reducing Intimidation

Intimidations could be reduced by “knowledge of sociometric body language and even furniture placement can influence interactions. The arrangement of people and objects in a setting may have an impact on interactions and relationships” (Berg, 2007:118). The setting was difficult to control, as participants were either imprisoned or had invited me to their offices or homes.

The interview sites were important to take into consideration as they played a role in creating power relations. “Any given location, is a setting for a variety of social, political and economic activities and relations that operate at and through multiple scales” (Elwood and Martin, 2000:650). Interviewing within prisons usually implies that power is attributed more to the researcher than the prisoners. This is due to the fact that researchers are seen as a connection to the outside world, as someone who would aid and make a difference. It was therefore important to ensure that none of the prisoners were provided with false hope or promises. For example, I made sure prisoners were informed that I was unable to help them with their legal cases and instead the only help I could offer was the legal aid, psychological and psychiatric help offered by my colleagues in AJEM.

In relation to judges and lawyers, interviews were carried out in their offices or homes. Due to the sites and their employment positions, the power balance was shifted and they had the power. Although it was impossible to neutralise the power balance, I ensured that at no point was I intimidated and that I was in control of the interview process.

4.5.2 Body Language and Appearance

“Basic to communication of the interview meaning is the problem of appearance and mood as clothes often tell more about the person than his or her conversation” (Berg, 2007:118). Within the prison sturdy shoes (i.e. no high heels, or sandals), jeans and the AJEM vest were worn at all times. The AJEM vest was a requirement as both the organisation as well the prison guards requested it be worn as a form of identification within the prison. Wearing the AJEM vest aided in gaining participants for the study, as when the participants were called upon they knew it was someone who works for the organisation and therefore knew of the various services¹⁹

¹⁹ Services offered by AJEM include legal counseling, psychological and psychiatric treatment, as well as social support.

AJEM offered. The AJEM attire was also worn while interviewing prison guards due to the fact that interviews were conducted within the prisons.

Being visibly affiliated with AJEM further aided in the interviewing of prison guards, as the organisation has a close working relationship with them. When interviewing judges, lawyers, and police officers smart-casual attire (i.e. jeans and a shirt) were worn. Smart-casual clothes were chosen because it helped develop a sense of ease and lessen intimidation. Compared to smart clothes, i.e. a full suit, smart-casual clothes helped me seem approachable, yet maintain a serious appearance.

In an attempt to portray an open and friendly stance with participants at all times, thanking them for participating and clearly explaining the study and the questions was important. Moreover, giving participants the opportunity to expand on their beliefs and attitudes, of course to a certain extent, aided as it provided them with the rare opportunity to speak out and discuss issues.

Despite the efforts mentioned above, it was difficult to conduct interviews with police officers, prison guards, judges and lawyers. This difficulty was due to the way they viewed themselves, as people with power. These groups of participants sometimes tried to take control of the interview and tried to divert off the topic to other issues or to boast about cases they have closed. For example, a police officer, invited two female officers to *'listen in to his lecture'*, despite informing him several times that this was a study and not a lecture. Within this particular interview, the police officer proceeded to talk about the numerous cases he had closed in an effort to boast. When situations like this arose, I listened but then directed them back onto the topic whenever it was possible. It was important not to cut the participant off while talking in order to avoid agitating them and as a result affecting their willingness to participate.

In addition to attempting to direct conversations, numerous judges and lawyers kept me waiting for hours despite the fact that our meetings were pre-scheduled. For example, one judge kept me waiting for three hours in his office while he casually spoke to visiting people. Two reasons can be put forward to explain such actions. Firstly, it might have been a result of judges and lawyers not valuing the importance of the research. Secondly, it is due to power i.e. they believed that it was okay to keep people waiting as they would wait for them for as long

as it takes.

4.5.3 Gender

As was discussed in Chapters Two and Three, as a consequence of living in a patriarchal society, females within Lebanon are not provided with many rights. Moreover, men are seen to have the power during conversations and any other form of social interactions. Most of the participants within this study were male and therefore patriarchy had some effects on my interaction with them.

Gender plays a role within prisons in various ways, and so the effects of gender are extended to researchers within prisons. “The majority of staff working in prisons are male and prison work has often been viewed as a ‘masculine’ occupation” (Kumari, Caulfield and Newberry, 2012:6). This is especially true in Lebanon where men dominated not only prisons, but also the criminal justice system as a whole. Therefore, being a female and conducting research in a male dominated arena resulted in numerous comments and barriers to the study. Comments included “*why would **a girl like me** want to do such a research?*” and that “*this is not something **you** should be talking about*”. These comments began from the start i.e. when I was obtaining the official permissions, and ran through the whole research process. Such comments were perhaps a result of the patriarchal mentality within Lebanon, which promotes women taking on more ‘feminine’ jobs or the role of the housewife. A female criminologist was a surprise to most due to the fact that crime and criminal justice is a predominately male arena and also due to the fact that within Lebanon there are currently no criminologists.

In addition to straightforward remarks (such as those mentioned above), interviewees highlighted male patriarchy when numerous participants’ expounded the belief that ‘women should be at home and dress conservatively’. Moreover, some judges and lawyers pursued ‘victim-blaming’ routes throughout the interviews. In such cases, participants highlighted the belief that women were raped as a result of their choice of attire and that the way they acted displayed the belief that they ‘wanted it’. Although none of these remarks were directly referred to me, they did provoke a feeling of discomfort and anger.

Direct comments occurred when for example, a prison guard made me walk through the scanners several times upon trying to enter prison. This happened despite the fact that the

machines did not beep and I had been subjected to a body search. When asked why I had to repeat the procedure, the prison guard replied “*don't you know I like blondes?*”. Despite my anger at wasting time and the inappropriate actions of the prison guard, I smiled politely and asked if I was able to go in and begin work.

“A woman who researches a male dominant environment, is likely to be in situations in which she must decide whether to challenge a sexist remark or assumption or ignore it” (Horn, 1997:303). I (as a researcher) took the decision to ignore sexist remarks due to the fear that if challenged it might affect rapport and access. However, I like many female researchers, “felt extremely uncomfortable, since I felt that by not challenging sexism, I was to some extent condoning it” (Horn, 1997:304).

In addition to sexism, numerous participants (especially prison guards and lawyers) were condescending. In some cases participants spoke to me as if I were a child in a low slow voice, explaining the simplest of things and being overtly sensitive. For example, several participants apologised for using terms such as “*jump on her*”, “*sexual intercourse*” “***** her*”. This would not have occurred, if I were a male participant. In fact one participant highlighted that it was because of my gender that he found it difficult to talk about such things “*it is not a nice thing to talk to a girl about this*” (Judge 1). Even when prisoners were open with their accusations/crimes, they refused to mention the sexual encounter and instead narrated for example “*and then I took her into the elevator and did the things I did...*”. In some cases I had to ask whether they had been accused of rape, molestation or other sex offences by providing them with options and them nodding to the correct accusation.

Effects of gender were also experienced when participants expected to do most of the talking while I listened. Such occurrences affected the length of the interviews, and the power balance within the interviews (See Section 4.5.2).

4.6 Ethics

“Social scientists, perhaps to a greater extent than the average citizen, have an ethical obligation to their colleagues, their study population, and the larger society. The reason for this is that social scientists delve into the social lives of other human beings” (Berg, 2007:53).

There are several aspects which need to be taken into consideration in order to ensure a study is ethical. These include: ensuring anonymity and/or confidentiality, ensuring informed consent is obtained, ensuring dignity is maintained and individuals as well as society are not harmed (Couchman and Dawson, 1990). The steps taken to ensure ethics were upheld throughout this study were detailed to the Loughborough University Ethical Committee prior to conducting the study.

Ethics are important for several reasons:

“Ethical behavior helps protect individuals, communities and environments and offers the potential to increase the sum of good in the world. Ethical research conduct assures trust and helps protect the rights of individuals and communities involved in our investigations. It ensures research integrity and, in the face of growing evidence of academic, scientific and professional corruption, misconduct and impropriety, there are now emerging public and institutional demands for individual and collective professional accountability” (Isral and Hay, 2012:501)

It is because of the importance of ethics, that this study undertook several steps to ensure ethics were continuously placed at the forefront throughout the whole research process. The steps taken to ensure the study was ethical are detailed within the subsequent sections.

4.6.1 Anonymity and Confidentiality

Although many people mistake anonymity and confidentiality to mean the same thing, it is important that they be distinguished from each other and that the issues connected with them are tackled separately. To begin with, confidentiality “is an active attempt to remove from the research records any elements that might indicate the subject’s identities” (Berg, 2007:79). Within this study, in order to ensure confidentiality, jobs titles were not specified. The exemption of job titles was important as they may be used to identify participants. For example, I could not state “the president of Lebanon claims that Lebanon is full of corruption” when everyone knows whom the president of Lebanon is. Similarly, in regard to prisoners, no information was recorded surrounding specific cellblock numbers and/or case file numbers. Describing anonymity, Berg described it in a literal sense; anonymity “means that the subjects remain nameless” (Berg, 2007:79). This involves the simple task of replacing the participants’

names with pseudonyms.

Throughout the study no details such as names were given which put the participants at risk of revealing their identities. Instead, participants were attributed numbers i.e. Prisoner 1, Judge 10 etc. It is a requirement of any research that participants are “informed about and understand how far they will be afforded anonymity and/or confidentiality” (Davies, 2011:167). Within this study participants were informed at the beginning of each interview that they will receive full anonymity and so will also be confidential. In addition to anonymity and confidentiality, it was essential to achieve informed consent in order to uphold ethical standards.

4.6.2 Informed Consent

“Research must not harm or put the researched at risk in any way, and the researcher has a responsibility to conduct themselves with honesty and integrity and with consideration and respect for the research subjects, whose rights should be respected” (Davies, 2011:167). This means that in order for research to be conducted, achieving participants’ informed consent is paramount.

“Informed consent means the knowing consent of individuals to participate as an exercise of their choice, free from any element of fraud, deceit, duress, or similar unfair inducement or manipulation. In the case of minors or mentally impaired persons, whose exercise of choice is legally governed, consent must be obtained from the person or agency legally authorized to represent the interests of the individual” (Berg, 2007:78).

There are several formats for informed consent slips depending on the type of study. However, “typically informed consent slips contain a written statement of potential risks and benefits and some phrase to the effect that the risks and benefits have been explained” (Berg, 2007:78). It is important to obtain informed consent in order to show that no one was coerced into participation. “The requirement to obtain voluntary informed consent from research participants is based on three ethical principles: respect for autonomy, beneficence and justice” (Faden and Beauchamp, 1986:271).

Within this study, Loughborough's Ethical Committee's informed consent form was used although slightly adapted. The adapted informed consent form (which was approved by Loughborough's Ethical Committee) required ensuring that:

- (1) The participant had understood the purpose and details of the study.
- (2) The participant had fully comprehended the information sheet and the consent form.
- (3) The participant had been given time prior to the start of the study to ask questions.
- (4) The participant understood that they were under no obligation to take part in the study.
- (5) The participant was aware that they could withdraw from the study at any time without providing any reasons.
- (6) The participant was aware that all the findings would remain confidential and he/she would remain anonymous unless it was judged that confidentiality should be breached for the safety of the participant and/or others.

In order to ensure all participants could understand the informed consent form, a sworn translator translated it into Arabic. The translated forms were used with each group of participants; however, they were not always signed. By law, prisoner participants are not allowed to sign any documents, and the prison guards and police were either forbidden or too scared to sign the forms. Moreover, the informed consent forms were an issue for prison Governors, despite attempts at explaining their importance. As a compromise, prison Governors suggested they sign the informed consent forms on behalf of the prisoners. This was refused due to the fact that it would have been a breach of ethics. Allowing prison Governors to sign on behalf of prisoners would have resulted in a breach in confidentiality and anonymity of prisoners. This would therefore, have put participants at risk of repercussions especially if prison Governors did not wish many participants would take part in the study. It is for that reason verbal consent was obtained instead.

Verbal rather than written consent was also obtained with police officers, prison guards and in some cases judges and lawyers. Judges and lawyers refused to sign the forms stating they do not usually sign anything, as they do not want to be held legally accountable. The 'distrusting' of consent forms occurred despite explaining to participants what an informed consent form is. The refusal to sign the informed consent sheet could have been due to numerous reasons, not least of all fear. Fear played an important role as this study examined a sensitive topic, and discussed sensitive issues in relation to corruption and the Lebanese criminal justice system.

This fear was evident when participants repeatedly asked if their names would be mentioned despite explaining confidentiality and anonymity to them. It is due to this fear that participants did not feel comfortable leaving a paper trail of their participation. "Informed consent forms obstruct research by introducing a formal procedure that is often beyond the capacity of the participant and abrasive to the contact between researcher and participant. The form itself reads like a legal document" (Roberts and Indermaur, 2011:292).

Along with the informed consent, an information sheet was provided to each participant (See Appendix Six). This participation information sheet detailed the study, and why they were chosen as potential participants. This process was undertaken with all participants despite whether they were allowed or willing to sign the informed consent. When faced with illiterate people, both the informed consent and information sheets were read out to them.

4.7 Personal Safety

Due to the fact that Lebanon was considered by the Commonwealth to be a dangerous country, a personal risk assessment was presented to the Ethical Committee (Appendix Seven). This risk assessment was conducted through gathering data from the United Kingdom Foreign and Commonwealth Office surrounding security and safety in Lebanon. It touched on several potential risks and how they could be avoided. For example, due to the unstable situation within certain areas, I agreed that I would not travel to certain areas such as Baalbek. The risk assessment further touched upon different aspects such as terrorism and personal safety while conducting interviews. In order to avoid placing myself at risk, high-risk areas were avoided. These areas included certain areas that have been targeted by suicide bombers in the past.

With regard to personal safety within prisons, AJEM acted as a sponsor and several colleagues accompanied me into prisons. This ensured that we were always a group of people working within the prisons therefore limiting the risk of being taken hostage by prisoners. My previous work with AJEM meant that I was acquainted with the various prison settings and knew what to expect upon entering. Schlosser (2008) places a lot of importance in knowing what type of prison a researcher is entering in order to be prepared. "Determining at what level of security the prison functions and how much freedom inmates are allowed before entering the institution will safeguard against researchers being completely unprepared for what goes on inside" (Schlosser, 2008:13). As was previously mentioned throughout Chapters Three and later in Chapters Five and Six there is a lack of segregation according to crimes within Lebanese

prisons. This means, prisons are not classified into categories like those of countries such as the United Kingdom. Instead, prisons are composed of a mixture of criminals who roam around prison grounds. Entering the prison entails walking alongside the prisoners and cutting through their exercise grounds and in general being in close proximity with them. Our (AJEM and my) only 'guards' within the prisons are the head prisoners²⁰ and in extremely rare circumstances prison guards (i.e. period directly after a riot). In general before a researcher enters prisons they "will be advised of what to wear, with whom to speak, how to behave, what to disclose and where to go during the entry" (Schlosser, 2008:10). This did not occur, even when I first began working with AJEM. The prison 'protocols'²¹ were therefore learnt from interacting with and observing my colleagues.

As for protection outside of prison, General Neaime acted as a guardian due to the fact that I dealt with sensitive issues. He was always aware of the situation within the country and when he thought certain areas were unsafe, he would contact me and recommend I avoid such areas.

4.8 Additional Research Challenges

4.8.1 Challenges Within the Prison

4.8.1a The Unstable Situation

The unstable situation within Lebanon hindered gaining access to several prisons and police stations. Even when access was granted, the unstable security situation in and around the prisons prevented entry. Prisons "react to internal and external dynamics and external political pressure" (Liebling, 1999:151). This was especially true in Tripoli, as well as Roumieh Prisons as prisoners tended to riot due to politics, and/or prison conditions. For example, on April 18, 2015 during a prison riot in Roumieh prison, a prisoner tweeted "the riot is a blessed gift from the Sunni prisoners who are suffering from the oppression of the Lebanese system that takes its orders from Iran's party" (Yalibnan Web site, 2015 April 18). Another recent riot occurring in

²⁰ Prisoners who practically run the prison and do so either because they are selected by prison guards to do so or (in prisons where guards have little to no control) take on the role due to their powerful family ties.

²¹ Only protocols were: (1) that I needed to carry my organization identification card which acts as the permission to enter (2) needed to be searched by prison guards (3) follow the 'head prisoners' into the appropriate rooms to conduct interviews/sessions.

June 2015 within Roumieh prison was due to the recently leaked videos showing the use of torture within prison. Prison riots have numerous things in common with revolutions “including prior administrative crises, elite (guard) alienation and divisions, and a widespread popular (prisoner) sense of injustice and grievances regarding (prison) administration actions (not just toward imprisonment per se)” (Goldstone and Usteen, 1999:985).

4.8.1.b The Lack of Prison Guard Control

Prison guards are present within the prison to ensure that the prison runs smoothly and therefore to maintain control over prisoners (Hepburn, 1989). However, within Lebanese prisons there is a lack of prison guard presence and control (See Chapters Five and Six). The lack of control was particularly evident in Roumieh and Tripoli prison. Within these two prisons, prison guards were not available. Therefore, in order to access participants, I had to use the help of the ‘head prisoners’. There are two types of ‘head prisoners’ first those, who due to their good behaviour and work with AJEM, were given the responsibility of helping run and manage the prisons. The second types of ‘head prisoners’ are those who, due to their political stance and/or family, gained power and stance within the prison. One type of ‘head prisoner’ therefore earned their power while the other took the power illegitimately.

Due to their power within the prisons, ‘head prisoners’ would help arrange meetings with potential participants. Once provided with names, the head prisoners personally went to the sex offenders and informed them that I was requesting a meeting. Confidentiality meant that I would not inform the head prisoners of my research topic. Instead, I would just provide them with names and tell them to inform participants that a member of AJEM would like to speak to them. However, in many cases the head prisoners knew the crimes of all prisoners within ‘their prisons’. In some situations ‘head prisoners’ asked why I was requesting talking to people accused of rape and other sex crimes. In such situations I just explained that I was conducting an assessment of their well-being like AJEM does with other prisoners.

As a result of the lack of organisation and prison guards, the process of ‘head prisoners’ ushering potential participants sometimes took hours. This was because; potential participants were only informed by ‘head prisoners’ of my presence but then were left to decide when to put in an appearance. This process in Tripoli and Roumieh was different from that in Zgharta and Jbeil where prison guards were in charge and so accelerated the process of interviews.

4.8.1.c Lack of Space

Another issue with trying to conduct interviews within prisons in Lebanon was the lack of space. In order to uphold ethical standards of anonymity and confidentiality, interviews have to be conducted privately with no external interference (i.e. no other prisoner or guard). This was an issue within Tripoli prison as there was not always space to conduct interviews. In some situations in-prison hairdressing rooms, and libraries were used to conduct interviews, as no other options was available. Moreover, in some cases, due to the lack of space, it was not always possible to conduct interviews; therefore the two-hour drive was fruitless. It was impossible to contact prison Governors in order to enquire whether there was space to conduct interviews due to the fact that organisations visit prisons unannounced and therefore it is a 'first come first serve' system. It is for this reason that when research is conducted in a volatile and ever changing environment such as a prison, it is important that a researcher is able to adapt and compromise. For example, ask prisoners to help set up a table and chair in the hair dressing room that is located in the middle of the prison.

4.8.2 Problematic Attitudes

Within Tripoli and Roumieh issues arose with prison guards who were not involved in the study. For example, some of the guards in front of each of the prison blocks of Roumieh prison mocked the study, stating that sex offenders '*are the only ones who should be innocent*' (Roumieh Prison Guard). This can be in reference to the Lebanese culture that sees sex whether forced or not as a man's right (See Chapter Two). Such comments like other sexist comments previously discussed were ignored. Moreover, many prison guards and police officers did not take the study seriously. This could be attributed due to two reasons. Firstly, due to the belief that sex offences are not a problem within Lebanon and secondly, due to my gender.

4.8.3 Challenges Within Police Stations

One of the main problems within police stations was the previously mentioned role of power. However, other issues arose, such as the presence of higher-ranking officers when interviewing prison guards and police officers. The presence of senior officers within the interviews would have left the participants feeling vulnerable, at risk, and as a result hindered their level of participation and honesty. Therefore, when senior officials were present I attempted to explain that this was a 'one on one' process and that this was important in order to minimise the risk of influencing other participants' responses. In general, this explanation was sufficient and senior

officers left the room. However, in some cases they [senior prison guards] refused to allow participants to take part without their presence. In such situations, although the interviews were conducted, they were later omitted. The reason why such interviews were omitted was due to the effects of supervision by senior officers. One such effect was the failure to be able to openly discuss issues within prisons. For example, one prison guard waited until the senior officer left the room for a chance to inform me that he will be unable to talk about issues. *“You can not ask me about the problems, I can not talk to such things with him present”* (Omitted Prison Guard)

4.9 Data Collection and Storage

As was previously mentioned, a tape recorder was used during some of the interviews. The use of a tape recorder helped keep eye contact with participants and ensured they had my full attention. However, to keep with ethical standards, interviewees’ needed to agree to the use of the tape recorder and were informed that if they were to agree their names would not be mentioned. Once an interview was recorded, the tapes were taken to my secured office, transcribed and then destroyed. Transcription was immediate and the tapes were kept for one year and then destroyed. The tapes were destroyed using an industrial shredder; this ensured that no one would be able to re-use the tapes.

Transcriptions of the interviews were placed into a secure online database called ‘Drop Box’ that was protected with a password and could only be accessed by my supervisor and myself. This data still remains in the folder for back up purposes, however, it is important to note that all the data collected throughout this study will be destroyed after a maximum of six years.

4.10 Data Analysis

There are several different qualitative analytical methods each of which offer different forms of insight. Chamberlain (2013:14) notes that “when dealing with qualitative data the analytical process is heavily dependent on a researcher’s own intuitive personal judgment and tacit understanding of the social world they are studying”. For the purpose of this study, a simple thematic analysis was undertaken on the data. Despite its widespread use, thematic analysis is rarely acknowledged as an adequate method of analysis (Braun and Clarke, 2006). However, “through its theoretical freedom, thematic analysis provides a flexible, and useful research tool, which can potentially provide a rich and detailed, yet complete account of the data” (Braun and

Clarke, 2006:5).

According to Boyatzi (1998) thematic analysis is defined as a method “for identifying, analysing and reporting patterns (themes) within data. It minimally organises and describes your data set in (rich) detail. However, it often goes further than this and interprets various aspects of the research topic” (Cited in Braun and Clarke, 2006:6). A complete step-by-step guideline to the process of conducting a thematic analysis is unavailable. This is because of the lack of detail on how themes and patterns are actively identified and selected by the researchers. Thematic analysis (unlike other forms) does not involve themes and patterns to naturally ‘emerge’ from the data during analysis (Ely, Vinz, Downing and Anzul, 1997). Instead, it is up to the researcher to actively identify them. In order to actively identify and select the themes and patterns several steps were undertaken throughout the process of analysis.

4.10.1 Transcription of Interviews

Interviews lasted between thirty minutes to an hour, depending on the participant. Some participants despite probing were not very talkative and responded to numerous questions with ‘*I don’t know*’. Such interviews were therefore very short and less fruitful. While other interviews took longer as a result of probing and the exploration of new areas resulting from participants’ answers. It is because of such occurrences, interviews were not always identical despite covering the same general points.

Despite the length of the interviews, all interviews were transcribed. Immediate transcription was important for three reasons. Firstly, it allowed me to be more aware of emerging themes. Secondly, it ensured that the interview was still fresh in my mind. This made it easier to clarify categories and concepts during coding. Thirdly, direct transcription was important for ethics, as it ensured that the tapes were disposed of quickly. As was previously mentioned the tapes were destroyed using an industrial shredder and this ensured that ethical standards were constantly upheld.

According to Bryman (2008) transcribing involves the transforming of the voice recorded data into written form, and usually takes five to six hours for every one hour of speech. Within this study, this process was longer as the interviews needed to be translated and not just transcribed. The immediate translation from Arabic to English was undertaken, as it was

believed to be the easier for the analysis process. Translation from Arabic to English was a difficult task due to the fact that some words cannot be directly translated due to the role of culture within language. "Culture, is a cumulative experience, which includes knowledge, belief, morals, art, traditions, and any habits acquired by a group of people in a society. Culture also includes the total system of habits and behavior of which language is an essential subset" (Bahameed, 2008). Direct translation was therefore not always an option, however, the meanings of the untranslatable words were retained as they were described in English. Reflecting on the process it might have been easier to send the anonymous interviews to a sworn translator, as it would have aided in the translation of specific terms. The reason why I chose to conduct the translations myself was due to the fear that sworn translators would take too long, misinterpret the information, and risk the ethical standard of the research.

4.10.2 Coding Material

Once the data was transcribed, coding began. "Coding is a way of identifying important words or group of words in the data and labels them accordingly" (Birks and Mills, 2011:9). According to Stirling (2011:390), "There are a number of ways of devising a coding framework, but as a summary, it tends to be done on the basis of the theoretical interests guiding the research questions, on the basis of salient issues that arise in the text itself, or on the basis of both". Open coding was used throughout this process. Open coding was chosen as it "allows the researcher to identify and even extract theme, topics or issues in a systematic manner" (Berg, 2007:205). In order to code the transcripts, individual sentences were examined and the words that were of theoretical importance to the research question were then coded.

For example, when enquiry into the way they were interrogated, one prisoner participant claimed:

"At first normal, they spoke in a nice way, after around half an hour, I think it was half an hour you know sense of time is not that great when you're in such a situation, but they completely changed. I think they might have received a phone call or something but they became aggressive. They hit me, with a satellite rope, and tied me up 'farouj'. Investigator asked for a 100 \$ from my dad to let me out, but my dad refused and so I stayed being interrogated. This was in 2007" (Prisoner 2).

The codes derived from such a statement included (1) changing attitudes (2) corruption (3) types of abuse and (4) bribery. These codes were formed according to issues that arose from reading the interview transcripts. Example of codes derived from the transcripts therefore included (1) the recounting of events (2) the use of torture (3) corruption (4) added information (5) inconsistent evidence etc. The formation of such codes enabled the construction of initial themes.

4.10.3 Identifying Initial Themes

Themes are usually defined as “simply labels for metacategories (a more inclusive category), or perhaps a classification of codes into types of categories” (Bazeley, 2009). According to Braun and Clarke (2006:10) a theme: “Captures something important about the data in relation to the research question, and represents some level of patterned response or meaning within the data set... ideally there will be a number of instances of the theme across the data set, but more instances do not necessarily mean the theme itself is more crucial”.

In addition to new themes, some of the codes derived acted as initial themes. Initial themes derived from prisoner interviews included for example:

- Beatings
- Degrading treatment
- Forced signatures

Initial themes derived from police officers and prison guards interviews included, for example:

- Failure to state rights of detainees
- No evidence
- Beatings
- Lack of basic essentials
- Undeserving of rights

Initial themes derived from judge and lawyer interviews included:

- Lack of monetary resources
- Sexism
- Importance of confessions

- Undeserving of rights
- Lack of legal representation

Once the initial themes were derived from all interview groups (i.e. police officers, prison guards, prisoners, judges and lawyers) the themes were then re-examined. Upon re-examination it was evident that several themes were found across the data sets. For example, 'beatings' were found within all interview groups. However, before any further examination into those themes was undertaken, it was important to group the initial themes where possible. The grouping of initial themes allowed for the refinement of the themes. "Refining themes involves going through the selected themes and refining them further into themes that are (i) specific enough to be discrete (non-repetitive) and (ii) broad enough to encapsulate a set of ideas contained in numerous text segments" (Stirling, 2011:389).

4.10.4 Refining Themes

Within this stage it was important to arrange the themes into different groups, decisions about how to group themes was made on the basis of the content. Several groups of themes were formed due to the fact that the initial themes could not all be grouped under one big theme. An example of a refined theme was '**torture**'. Under this theme several initial themes were grouped. These included 'beatings, mental torture, threats, tying up, etc.'. Another example of a post-grouping theme was '**Culture of Confession**'. Several initial themes were grouped to form this theme, they included: 'forced confessions, reliance on confessions, importance of confessions, etc.' These refined themes summarized all the data gathered, they therefore were "themes that together presented an argument" and can be used alone to provide an argument for the research questions. These themes were therefore very different to the initial themes which on their own say very little about the text or group of texts as a whole (Stirling, 2011:389).

4.10.5 Describing and Exploring Themes

Within this stage, the main texts (which were transcribed from the interviews) were of no use. Instead, the themes were further examined and patterns were highlighted. These patterns and themes were used to formulate a cohesive story relating them back to the original research questions. This cohesive story allowed me to relate all the themes, concepts and patterns, which emerged to my research questions and the literature they are grounded in. The themes

derived from the data are examined within Chapters Five and Six where the dissemination of findings takes place.

Examining the steps followed, it is easy to see that an inductive or 'bottom up' approach was used within this study. This meant that the themes "identified are strongly linked to the data themselves..." (Braun and Clarke, 2006:12). Moreover, following a bottom up approach meant that the themes were not driven by my theoretical interest in the topic (Braun and Clarke, 2006). This is ideal for an exploratory research such as this.

Conclusion

Studying a topic such as sex offenders' trajectory through Lebanon's criminal justice system was a difficult task due to several reasons. These reasons included:

- (1) The lack of existing research that could be used as a starting point.
- (2) The taboo associated with the topic
- (3) Gender issues

In order to aid in the ethical completion of the research despite these issues (mentioned above), several steps were undertaken. These included: the use of connections, building good rapport and relationships with participants, acknowledging power relationships between the researcher and the researched, and following pre-existing ethical guidelines (such as the use of informed consent forms, information sheets, etc.). Following these steps helped ensure participants were comfortable and in turn more cooperative.

In relation to the analysis of the interviews, a simple thematic analysis was used. This meant that after transcribing the data was coded. Once coding was complete initial themes were derived and then grouped under main themes. The main themes presented an argument and therefore can be used alone to provide an argument for the research questions. The main themes therefore can be used to describe the attitudes, opinions and behaviour of participants' towards the trajectory of sex offenders through the Lebanese criminal justice system. They can also highlight the deeper cultural structures of the criminal justice process as a whole.

Examining previous chapters (e.g. Chapters Two and Three), it is no surprise that some of the main themes that emerged through the analysis included corruption and bribery as well as the

influence of religious reference points, particularly in relation to the current treatment of sex offenders within the Lebanese criminal justice system. Such results alongside further results from the analysis can be found in Chapters Five and Six where they are disseminated and considered in relation to existing research and theories surrounding sex offences and criminal justice in general. Verbatim quotes were used within Chapters Five and Six to demonstrate these findings.

Chapter Five

Human Rights Violations Findings

Introduction

Through the thematic analysis of participant interviews, this study has drawn attention to numerous violations experienced by sex offenders within Lebanon. It conducted interviews with a total of seventy-five participants from various participant categories (i.e. police officer, prison guards, lawyers, judges and prisoners). Participant categories were chosen according to the main research questions (See Chapter Four).

This chapter discusses the findings disseminated from the thematic analysis of participant interviews surrounding their experiences of human rights violations throughout the criminal justice system. The chapter further highlights why participants believe violations occur and what they recommend should be changed in order to prevent violations. The chapter examines the findings in relation to the theories surrounding human rights violations. It therefore builds on existing literature attributing human rights violations to global, demographic, political, and economic factors (See Chapter Two). These factors are examined in relation to the findings when applicable and new factors are discovered.

In addition to this, this chapter aims to explain why, even though, Lebanon has signed and rectified several human rights legislations and conventions, human rights violations still occur. Discussing the findings in relation to the existing literature provided in Chapter Two as well as other theories was important as it helped build a complete picture of the topic and also paved the way for recommendations for improvement within Lebanon. It is important to note that although this study aimed to examine the experiences and attitudes of and towards sex offenders, most findings within in these two chapters (this chapter and Chapter Six) may be generalised to all offences. However, due to the lack of existing research and the lack of interviewing non-sex offenders it is not possible to make such a conclusion. This may therefore be an area for future research.

5.1 Re-visiting Human Rights

As previously mentioned, 'modern' human rights can be seen to date back to the 1940s once World War Two ended, when countries had decided to organise a body to ensure that people were protected from violations. The body formed organised the development of legislation surrounding human rights, beginning with the main legislation the Universal Declaration of Human Rights. Since the development of the Universal Declaration of Human Rights, numerous other legislations, and conventions were formed and human rights came to be law. The development of human rights has been examined throughout Chapter Two. It provided a detailed account of what human rights are, when they began, as well as how and why violations of these rights occur. Chapter Two further documented the human rights violations found within Lebanon, as well as their development within the country. However, the violations mentioned throughout Chapter Two are general violations and are not violations experienced specifically by sex offenders within Lebanon. This chapter tells the story from the perspective of criminal justice agents and sex offenders surrounding the human rights of sex offenders.

5.2 Treatment of Sex Offenders Progressing Through the Criminal Justice System

Examining sex offender participants' interviews, all of the participants had experienced some form of, or a combination of violations while moving through the criminal justice system. A total of twenty-six sex offenders were interviewed, and they had all experienced violations at some point of their trajectory through the criminal justice system. However, not all participants had the same experiences. In addition to the experiences of sex offenders, numerous criminal justice agents also highlighted violations occurring at several stages of the criminal justice system. Participants' responses revealed that the experience of sex offender participants varied according to the arresting force, the prison, and the courts. Due to ethics, anonymity and confidentiality, the names of the police forces, prisons and the guards will not be mentioned. Instead participants will be referred to as Prisoner 1, Judge 5 etc.

5.3 Arrest and Detention

Most accounts surrounding the process of arrest were filled with police brutality and the use of excessive force. Prisoner accounts supported findings by Human Rights Watch (1998)

surrounding the excessive use of force by police officers (See Chapter Two). Research participants' accounts were saturated with instances of shootings, beatings, and rough treatment. For example, one prisoner claimed *"They [the police] lay me down on the floor and started stepping on my head, with their feet of course"* (Prisoner 1). Another participant claimed that numerous tools were used to beat him. *"... The police then started hitting me, they didn't only use their hands, they used objects. They used their sticks and anything else they could find to hit me with..."* (Prisoner 7). In addition to suffering beatings from the police, the same participant claimed the victim's sister was allowed to beat him prior to the police. *"The investigation unit came and caught me, hand cuffed me and then they let her [the victim's] sister hit me, I was handcuffed while her sister was jumping on me and hitting me and screaming..."* (Prisoner 7). The police (with the help of the community) are meant to protect society from any threats on persons, and property. This protection should extend to those accused of crimes and include the lawful arrest of suspects (i.e. not subjecting them to violence).

Police brutality and the involvement of non-professionals during arrest did not only occur in cases of accused male sex offenders. From a total of twenty-six prisoner participants interviewed, four were female prisoners. These four female prisoners also recounted events of police brutality. In addition to police brutality, two (out of the four female participants) pointed to the involvement of civilians in the arrest. According to the two females (who were accused of prostitution): *"I was first stopped by Hezbollah²². They were three men then a lot more... they hit us at first... then we were taken to the police station"* (Prisoners 23 and 24) .

Globally citizens' arrest is not uncommon however; it is rare as it is usually seen to be the police's job. Citizens' arrest can occur only when:

"It does not appear reasonably practical for a police constable to make the arrest and the person making the arrest has reasonable grounds to believe that such an arrest is necessary to prevent the person being arrested from: (a) causing physical injury to himself or another

²² Hezbollah-or the Party of God- is a powerful political and military organization in Lebanon made up mainly of Shia Muslims" (BBC News, 2010 July 4). Prior to it joining politics, Hezbollah was purely a militia.

person (b) causing loss of (or damage) to property (c) fleeing before a constable can take charge of them” (Myers, 2011).

If the guidelines mentioned above are followed, then a citizen arrest does not pose a threat to a person’s human rights. However, the citizens’ arrest carried out by Hezbollah on the two female participants was a violation of rights. This is because the two women were arrested within their homes, and not while fleeing, causing physical injury or causing loss of or damage to property. Hezbollah (which is not a legitimate police force and law enforcer) in addition to forcefully entering the women’s homes were reported to have used force against the women.

These narratives of prisoners show that there are two violations that occur during the arrest procedure. The first of which was the excessive use of force and secondly the failure to protect the accused from violence by civilians. It is common knowledge that the police exist in order to protect society, and it is their job to work with communities in order to enforce and uphold laws. These laws include human rights legislations that are implemented in order to protect all humans despite whether they possess a criminal record or not (See Chapter Two).

5.3.1. The Use of Force

In general, the police are allowed to use force only in specific circumstances such as in self-defence or in defence of another individual or group (National Institute of Justice, 2015). However, In the case of most participants, the show of excessive use of force by the police was common. According to most participants police hit and threatened to shoot suspects despite them not resisting the arrest. In an attempt to define and control the use of excessive force by police the criminal law, civil liability and fear of scandal should all play a role.

- (1) The criminal law “says that an officer’s use of force shall not be so excessive as to constitute a crime
- (2) Civil liability says that an officer’s use of force shall not cause such an injury to a person that the person or heirs should be awarded compensation for the officer’s misconduct; and
- (3) Fear of scandal, says that an officer’s behaviour shall not be of such nature as to embarrass his employer” (Klockars, 1996:xiv).

Criminal law, civil liberty and the fear of scandal however are not always successful in preventing the use of excessive force. Lebanon and the United States serve as examples of the failure in controlling the use of excessive force. The use of excessive force is not restricted to sex offenders, in fact, recently Lebanon's police have been criticised for the use of excessive force against protestors²³. The failure of controlling the excessive use of force within Lebanon may be attributed to the lack of accountability, lack of the concept of civil liability, and a lack in law enforcement. Despite recent attempts at holding police officers accountable for their actions, it is usually extremely difficult to do so. The difficulty was highlighted by Amnesty international which has been demanding that officers responsible for violence against demonstrators be held accountable (Amnesty International, 2015 August 29).

5.3.2 Rights Upon Arrest

Out of twenty-six participants only four claimed to have been informed of the reasons for arrest. "... *They told me why we were stopped, but other than that they didn't say anything else*" (Prisoner 23). Other participants reported being confused when arrested, due to the lack of information provided. "*They did not speak to me, when we arrived there [the police station] they [the police] threw me into the holding cell. Two days later they interviewed me, until two days later till I knew what was on me...*" (Prisoner 1). Amongst, the participants that claimed they were not promptly informed of the reasons for their arrest, many claimed that it took several days within the police station before anyone spoke to them. "*It took seven days being stopped before they took me to the Investigation Judge and they told me why I was stopped...*" (Prisoner 26). Other participants claimed, "*in the police station they also didn't ask me anything about why we were there nor did they say anything to us...*" (Participants 23 and 24).

There has been no discoverable research conducted explaining why police officers might not inform people of the reason for their arrest. However, some reasons might be, lack of training, the officers' belief systems and prejudices. Chapter Six will highlight (through the dissemination of police interview findings) that within Lebanon, police officers do not receive specific training surrounding human rights. If officers do not receive the appropriate training then how are they expected to apply human rights? Moreover, in regards to belief systems, it can be hypothesized

²³ According to Amnesty International, numerous police officers used excessive force to disperse residents protesting over the lack of adequate public services, a waste management crisis, and corruption (Amnesty International, 2015 August 29).

that officers may fail to inform suspects of the reasons of their arrest because they do not believe in human rights as a concept, **or** because they do not believe criminals deserve human rights. If a person is brought up in a way that respects oneself and other people then they [as police officers] will be more inclined to inform suspects of the reason of their arrest and uphold human rights. As for prejudices, they may play a role as officers may have the preconceived opinion that suspects do not deserve to be informed of their rights. Furthermore, abuse of power and egocentricity might play a role, as some police officers do not feel the need to justify themselves or their actions. This may result in them believing they do not need to explain why they have arrested a person.

5.3.3 Torture Within Police Stations

The use of torture during the arrest process has been previously examined by existing literature. This sub-section will examine participants' accounts of the use of torture while detained in various police stations. Examining the findings, it is evident that torture is widespread within Lebanese police stations. Although most prisoner participants claimed they had been tortured, the use of torture varied according to the different stations, and individual officers. For example, some prisoner participants claimed that they did not experience the use of torture within specific stations, and in fact claimed the officers were friendly. In addition to the amount of torture used, the type of torture differed according to the various stations. Within some police stations torture included "*a few slaps*" (Prisoner 15) while within other participants reported "*they [the police] made me drink sewage water...*" (Prisoner 9) and "*they hit and hung me*" (Prisoner 22). One participant claimed the torture was so bad that he wished he died. "*They treated me and spoke to me in a bad way, I wish I died and didn't have to hear it or go through it...*" (Prisoner 11)

According to the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Article 1 torture means:

"any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or

with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions” (United Nations General Assembly, 1984 December 10).

Chapter Two has highlighted (through examining existing literature), the types of torture by the police. These included: “beatings, forced to stand for excessive periods of times, sleep deprivation, food and water deprivation, deprivation of sanitary facilities, electric shock, ‘farrouj’, beatings on sensitive parts of the body, insults, urinating in the mouth, threats, prolonged solitary confinement etc.” (Daunay, 2011:28-29). Participants’ narratives within this study added to Daunay’s findings as they mentioned the withholding of medication, and forbidding detainees to contact family members. These actions fall within the definition of torture provided by the United Nations Convention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as they cause severe pain or suffering both mentally and physically. Numerous participants highlighted the physical effects of torture. For example, one participant claimed he was “*hit using their [the police] hands and they [the police] used electric wires on my head. Look at my head I have no hair anymore. I have no hair because they [the police] got electric wires and rubbed my head using them until all my hair fell out...*” (Prisoner 9) Another participant reported “*I spent days being tortured... they [the police] even tied my penis with a rope and it swelled and to this day it still bleeds*” (Prisoner 11).

In addition to beatings and mental torture (for example, the use of threats), most participants had experienced the police refusing communication with family members and/or lawyers. The use of beatings, and refused communication were the most common torture methods disseminated during the study. Most participants noted a delay or a refusal to provide the detainees with their one phone call. Out of the twenty-six participants only one participant claimed he was directly provided with a phone call although it was restricted to a certain area code. This therefore meant that the participant could not contact a lawyer as it was a cell-phone number, and could only contact his family who luckily resided in that area code. For participants who noted a delay, most were provided with a phone call by the second day although one female participant claimed it was five days before she was able to notify her family. “*I was missing for five days, no one knew where I was or what was happening...*” (Prisoner 24). This is a violation of several international legislations.

Another form of torture was the withholding of medication. One prisoner participant touched upon the issue of the withholding of medicine by police officers. This prisoner had been removed from hospital (after a car crash) and detained by the police despite having broken bones. *“I was in so much pain but they wouldn't give me my medication”* (Prisoner 20). Although no other participants reported withholding of medication by the police, this low number might be due to the fact that most participants were not on any type of medication.

All police officer participants acknowledged the existence of these various types of torture within police stations. Although most tried to distance themselves from it by claiming *“Every person has their own ways some might use torture...”* (Police Officer 10). In some cases, police officers admitted to the use of mental torture over physical torture claiming that the use of ‘verbal torture’ is allowed. *“Verbal torture is okay, it is not something bad”* (Police Officer 7).

Even judges acknowledged and in one case approved of the use of torture by police officers: For example, Judge 1 claimed:

“I would go to the police station walk into the cell and tell them [the detainees] there are rats within the cell that might eat him. I would then tie him to a chair put the lights off and make rat noises. The detainees would then be so scared of being bit or eaten that they would confess”.

5.3.4 Confession as a Result of Torture

The use of torture, whether mental or physical, was seen to increase during interrogations. Most prisoner participants claimed that their confessions were *‘forced confessions’* resulting from torture.

For example, one prisoner participant stated,

“The police in the station hung me up and they would not let me loose, I was hung for eight hours from eight pm to four am. They would not even let me go to the toilet; I went to the toilet on myself. They wouldn't let me down until I agreed to sign the report...” (Prisoner 10).

Police officers participating in this study confirmed such occurrences. One officer, for example, claimed

“I never hit someone but I have used other mental ways for example, I forbid them from sitting on a chair, I make them stand and then every half an hour or so I ask them a question, I also don't let them sleep, they get so tired that they confess so they can go to sleep” (Police Officer 10).

Other officers openly admitted to using physical torture claiming, *“if we tried everything else and he doesn't talk then yes of course we use torture, we need him to talk...”* (Police Officers 3, and 5). Some police officers attempted to justify torture by claiming that it only occurs due to the lack of resources (See Chapter Six).

Judges and lawyers also highlighted the use of torture by police officers. *“... Many of these bad practices such as torture are increased in cases of sexual related crimes, in drug related crimes and in security related crimes”* (Judge 8). Moreover, some lawyers even condoned the use of torture by the police claiming *“I am for the use of torture if there is no proof because in cases of rape it is very hard to get evidence”* (Lawyer 7). If judges are noted to be promoting the use of torture to obtain confessions, then it is no surprise that torture is still prevalent in Lebanon as judges will be less likely to hold officers accountable.

5.3.5 Explaining the Use of Torture

Global, political, demographic and economic factors (put forward in Chapter Two) cannot be used to sufficiently explain the variation in the use and amount of torture by police officers. Instead, examining police culture might provide one more possible explanation. *“Police culture as seen today permits such abuses [torture, racism and discrimination] and the police gets a lot of opportunities”* (Vadackumchery, 2002:135). Police culture has come to view violations and abuses as necessary and the norm. It has therefore, created a general acceptance of the use of excessive force and torture in some countries. However, as this study has shown the use of torture can vary between individuals and police stations. The variation in the use of torture does not mean that these officers are derived from a different culture. *“Those who conduct their work professionally emanate from exactly the same culture as those who exhibit its worst characteristics”* (Foster, 2005:199).

The variation in the use of torture can be due to the varying power of the culture. According to Foster (2005) individual experiences of being a police officer affects individuals differently and

so the power of the culture may vary according to different people. This might explain how some officers do not use torture even though the police culture within Lebanon (for example) widely accepts it. Explaining why the majority of police officers condoned the use of torture can be attributed to wanting to be part of the 'team'. Individuals rejecting the police culture can be negatively impacted, as they are less likely to be considered part of the 'team'. Therefore, some individuals will carry out acts of torture despite knowing it is illegal, in order to 'fit in'. "Recruits soon learn that to survive their work practically and emotionally requires them to be one of a team. They also become acutely aware that their peers and colleagues have the power to grant or reject their membership of that team" (Foster, 2005:202).

Lebanon is not the only country that still uses torture. In fact, this study (throughout its literature review) has highlighted that all countries, despite the number of treaties signed or ratified and despite whether they are democratic or totalitarian in nature, still have violations. Some of these violations include the use of torture. The beating of detainees during the time of arrest and detention is therefore not restricted to Lebanon; in fact, according to the Human Rights Watch (n.d.) numerous Arab and Eastern countries such as Jordan and Russia also suffers from such violations. Within Jordan, Jordanian Intelligence Services "who systematically arrest, detain and torture opposition figures, peaceful protestors and media workers under the Anti-Terrorism Law, with the aim to provide the State Security Court with 'confessions' that will then be used as evidence" (Alkarama, 2015). Within both Jordan and Lebanon, holding police accountable for the use of torture is difficult if not impossible. This therefore provides the space to abundantly use torture, as there is no fear of consequences.

This difficulty to hold police officers accountable for any human rights violations in Lebanon is surprising especially since the use of torture and other violations are not denied by police officers, prison guards as well as judges and lawyers. For example, a lawyer confirmed, "*torture is used within police stations...*" (Lawyer 1). While a lawyer supported torture "*I am for the use of torture if there is no proof, because in cases of rape it is very hard to get evidence...*" (Lawyer 8). Even police officers claimed, "*torture is used in other police stations*" (Police Officer 9). Some criminal justice agents even went as far as to attempt to justify the use of torture. Statements such as:

"If we tried everything else and he doesn't talk then yes of course we need him to talk..." (Police Officer 5) and *"Why should the criminals have rights when victims don't?...They don't have any*

rights... if they rape then they don't have humanity, they are animals and not humans and without humanity then they have no rights" (Police Officer 10).

There is therefore a contradiction within the narratives of criminal justice agents. Although many participants openly claimed that sex offenders do not deserve human rights, and supported the use of torture, all criminal justice agent participants claimed that they, personally, did not use torture. This may be due to the acknowledgment that if caught using torture then they could face repercussions.

According to Amnesty International, there are several reasons why torturers do not fear being arrested, prosecuted and punished. These reasons include:

- “(1) A lack of political will-especially if the government is behind the torture.
- (2) Investigations are carried out by the torturers colleagues.
- (3) Human rights are not high on the political agenda” (Amnesty International, n.d.).

It is because of such factors, i.e. lack of accountability, and attitudes and beliefs promoting human rights violations that numerous countries still use torture. “While many states have taken the universal prohibition seriously and made significant strides in combating torture, governments across the political spectrum and from every continent still collude in this ultimate corruption of humanity: using torture to extract information, force confessions, silence dissent or simply as a cruel punishment” (Shetty, 2014:6). According to Amnesty International (2014), torture is still used in at least 141 countries across the world. However, it is estimated that the number provided is not the true number of countries still using torture, yet the secretive nature of torture means the true number of countries may never be found.

5.3.6 The Conflict Between Legislation and Personal Beliefs and Attitudes

Examining Lebanon’s law surrounding the process of arrest and detention numerous police participants noted the available legislation (See Chapter Six). However, how are these rights supposed to be enforced by police officers when they do not believe the detainees deserve these rights? Although some police officer participants believed that sex offenders had human rights, others disagreed. “*Why should the criminals have rights when victims don't?... they don't have any rights*” (Police Officer 17). One issue with such statements is the fact that these

people are detained because they are suspected of committing crimes. Therefore, detainees are in fact only suspects and not criminals, as they have not been found guilty by a court of law. They are not criminals even though the police are treating them as such. One participant highlighted this through his account of his experiences of detention: *“The police had a very bad attitude, they acted like I was guilty before they had even accused me”* (Prisoner 8).

Many prisoner participants reported the lack of legal representation, despite the Lebanese Code of Practice of Arrest detailing the right to a lawyer. This lack of legal representation was found to be common even at the point of interviewing, i.e. after being tried and incarcerated. Two reasons for the lack of legal representation were (1) not being provided with their phone call, and/or (2) due to not having the financial means of appointing a lawyer. As was previously mentioned some participants were refused their right to a phone call within the police station therefore resulting in a delay in acquiring legal council. However, even when the phone calls were provided, participants would not have much contact with the lawyer. This is due to the fact that within Lebanon, lawyers are not allowed to be present during the interrogation.

5.3.7 Corruption

Examining the violations occurring throughout the procedure of arrest it is evident that several factors play a role in promoting them. Some of the factors such as a police culture and police belief systems have already been touched upon. However, corruption as a factor in human rights violations has not been examined yet. Two ways in which corruption promotes violations and abuses is, for example, through cover-ups and accepting bribes. Bribes can result in police officers being more or less likely to abide by human rights legislation. While cover-ups ensure that despite the human rights violated, no one will know of its occurrence.

Prison guard and police officer participants claimed that within Lebanon, *“Corruption is constant. The temptation is always there, everyone thinks everything can be solved with a bit of money. So they attempt to pay police officers...”* (Police officer 11). Corruption is not exclusive to Lebanon however, not all countries experience the same type of corruption. Corruption can vary depending on how it is used and the extent to which the law can and should punish it (Senior, 2006). According to Transparency International, most countries if not all countries suffer from some degree of corruption (Senior, 2006). Transparency International provides a ranking of “countries/territories based on how corrupt their public sector is perceived to be”

where 0 means a country is highly corrupt and 100 means it is perceived as clean. Examining some of the countries' ranking within the region (i.e. the Middle East) in 2014:

Saudi (49)

Jordan (49)

Turkey (45)

Egypt (37)

Lebanon (27),

Iran (27)

Syria (20),

Iraq (17)

(Transparency International, 2014).

Compared to countries such as the U.K. (78), U.S.A (74) Denmark (92) and Japan (76) Middle Eastern and developing countries rank high on the corruption scale (i.e. close to 0). Developing countries include Rwanda (49) North Korea (8) and Sudan (11) (Transparency International, 2014). There are numerous reasons why developing and Middle Eastern countries rank highly. These reasons include for example the lack of accountability, and economical factors.

There have been numerous publications illustrating corruption in Lebanon. Chapter Two has already highlighted how people use 'wasta' and the "differential treatment based on religious and sectarian ties, and political or ideological relations" (Nashabe, 2009). Although this form of corruption is mostly used within the court system, it can also be used against detainees. For example, the police officers may be influenced through connections to either provide harsher or more lenient treatment (which includes enjoyment of rights). One participant highlighted this type of corruption: *"At first the interrogation was normal, they spoke in a nice way, after around half an hour... they completely changed... they hit me with a satellite rope, and tied me up farrouj..."* (Prisoner 2). It is unknown why their behaviour changed, however, being influenced by third parties might offer one explanation. Prisoner 2 further highlighted how police officers accept bribes to release detainees. *"The investigator asked for a 100\$ from my dad to let me out, but my dad refused and so I stayed being interrogated..."* (Prisoner 2). This study did not question whether prisoner participants who did not receive any harsh treatment during their arrest and detention used any connections. However, one participant claimed he was not tortured because of such connections. *"Everything was good in the police station...the*

police were good...no bad treatment, because I know people and they [the police] know who I am that is why. If I didn't know people (laughs)..." (Prisoner 26)

Another form of corruption highlighted throughout the narratives of participants included set-ups. This form of corruption was not touched upon by existing literature and only came to light as a result of the interviews, when numerous prisoners claimed the police and/or Lebanese government set them up.

"... In the police station the officers were asking how I was able to rape three people, and I kept telling them its impossible for anyone to do it [rape three people] at the same time so why am I here?..." (Prisoner 3).

"I am accused of rape and molestation. But I don't know how. I have erectile dysfunction..."
(Prisoner 13).

Prisoners further highlighted being set up when they claimed that several accusations were made against them which were completely unrelated to their initial reason of arrest. For example, two prisoners (accused together) stated *"They caught me with a bag of clothes and they accused me of prostitution...how can this be? From a bag of clothes I get prostitution?"* (Prisoner 3). Within cases of claimed set ups, prisoners claimed they were not given the opportunity to prove the set up. For example, one prisoner claimed, *"A Syrian refugee was living with us, I told them she was living with us, and I gave them her full name and I told them [the police] to go and get her. No one went to get her..."* (Prisoner 5). In some cases, prisoners claimed that the police were aware of the set up, yet they continued with proceedings. *"The police didn't listen to me plead innocence, they said they have a file they need to fill regardless of whether it is true or not"* (Prisoner 2).

The 'set up' of accusations is not confined to Lebanon and is often referred to as flaking and padding. Punch (2009:27) defines flaking and padding as "planting or adding to evidence to 'set someone up' to ensure a conviction or a longer sentence for a criminal". This study does not aim to examine whether these set-ups are in fact true, instead it aims to tell participants' experiences and attitudes. When conducting such a study it is always important to be cautious due to the nature of their accusations and the tendency to try and hide such accusations.

The use of corruption by police officers and judges and lawyers is a form of public corruption.

“Public corruption is often defined as involving behaviour on the part of officials in the public sector, whether politicians or civil servants, in which they improperly and unlawfully enrich themselves, or those associated with them, by the misuse of the public power entrusted to them” (Fijnaut and Huberts, 2002:4).

Police officers and prison guards highlighted cases of public corruption when they vocalised the widespread corruption within the hierarchy of the police. *“If someone is clean, you can guarantee the head is corrupt. Police are accepting money from religious and political people...”* (Prison Guard 3).

5.3.8 Explaining Corruption

Numerous academics and researchers have provided a list of explanations surrounding why the different types of corruption occurs within countries. For example, Newburn (1999) claimed there are several forms of corruption. Several of the factors mentioned by Newburn (1999) can be applied to corruption that occurs within Lebanon as well as other ‘corrupt’ countries. These include:

A. Constant factors	
Discretion	The exercise of discretion is argued to have both legitimate and illegitimate bases.
Low managerial visibility	A police officer’s actions are often low in visibility as far as line management is concerned.
Low public visibility	Much of what police officers do is not witnessed by members of the public.
Peer group secrecy	‘Police culture’ is characterised by a high degree of internal solidarity and secrecy.
Managerial secrecy	Police managers have generally worked themselves up from the ‘beat’ and share many of the values held by those they manage.
Status problems	Police officers are sometimes said to be poorly paid relative to their powers.

Association with lawbreakers/contact with temptation	Police officers inevitably come into contact with a wide variety of people who have an interest in police not doing what they have a duty to do. Such people may have access to considerable resources.
B. Variable factors	
Community structure	Refers to the degree of 'anomie', the political 'ethos', and the extent of culture conflict.
Organisational characteristics	Levels of bureaucracy, integrity of leadership, solidarity of work subcultures, moral career stages of police officers, and the perception of legitimate opportunities.
Legal opportunities for corruption	Moral: so-called 'victimless crimes' (Schur, 1965) associated with the policing of 'vice'. Regulative: the exploitation of minor or trivial regulations such as those associated with construction, traffic and licensing.
Corruption controls	How the guardians are themselves 'guarded'.
Social organisation of corruption	Two basic forms: 'arrangements' and 'events'.
'Moral cynicism'	Association with lawbreakers and contact with temptation is inevitable in police work, inclining officers towards moral cynicism.

(Newburn, 1999:17).

In addition to these factors, there are numerous theories that try and explain why corruption occurs. Some of these theories include Public Choice Theory and Organisational Culture Theories. Within the Public Choice Theory the individual has the choice of accepting and/or rejecting corruption. "The individual (usually male) is portrayed as a rationally calculating person who decides to become corrupt when its expected advantages outweighs its expected disadvantages (a combination of possible penalty and the chance of being caught)" (Graaf, 2007:44).

This theory can be applied within Lebanon as numerous police officers and prison guards claimed that in order to achieve certain posts, they are expected to be corrupt. Therefore the advantages of being corrupt (e.g. receiving a promotion) outweigh the costs. This is especially

true since the government fails to hold people accountable. Police officers, prisoners and prison guards have all highlighted the failure of punishing corruption. For example, Prison Guard 2 claimed: *“Well, it depends on the officer but usually we don't respond to complaints of Human Rights violations and corruption by prisoners...”* .

A recommendation to prevent corruption could therefore include raising the costs and holding people accountable (See Chapter Seven).

In relation to Organisational Culture Theories:

“The underlying assumption seems to be that a causal path from a certain culture – a certain group culture – leads to a certain mental state. And that mental state leads to corrupt behaviour. Failure in the “proper machinery” of government, not faulty character, leads public officials to act corruptly. Therefore, it accounts for the context corrupt acts occur in” (Graaf, 2007:51).

This theory may be tied in to police culture since, if the culture within the police is one that gives opportunity for corruption then it is likely that those within the culture will be corrupt. This corruption is re-enforced with the government’s inability and/or failure to punish corruption. Although this theory attempts to explain why corruption occurs and can be applied to cases such as Lebanon, it does not account for those officers who reject corruption. Instead of looking at corrupt individuals, this theory examines the context in which corruption occurs. It therefore infers that without pre-existing corruption an individual would not be tempted into corruption. “Therefore (and interestingly enough) corruption itself seems to be the ‘cause’ of corruption (even though the specific causal relationship is hard to define)...” (Graaf, 2007:52). According to Organisational Culture Theories, if the institution as a whole is corrupt, then the individuals are more likely to be corrupt. This is due to the fact that “not becoming corrupt in certain organizational cultures means betraying the group” (Punch, 2000:310).

Corruption can also be attributed to economical factors, as police officers do not have a high salary within Lebanon. Therefore, the acceptance of money in order to violate or uphold human rights might be appealing to many officers. Accepting bribes and money is but one form of corruption found within Lebanon.

5.4 Court

Participants highlighted numerous violations that occur throughout the court system. Some of these violations such as delays and corruption have been touched upon by existing literature (See Chapter Two). However, sex offenders' interviews highlighted additional violations that have not been previously examined. One such example is the sometimes-inadequate lawyers. The relationship between a lawyer and his/her client is a complicated relationship and many scholars argue that role-differentiated behaviour is common within such a relationship. Wasserstrom (1975:3) argues "it is the nature of role-differentiated behaviour that it often makes it both appropriate and desirable for the person in a particular role to put to one side considerations of various sorts-and especially various moral considerations-that would otherwise be relevant if not decisive". It is for this reason lawyers favour the interests of the client over those of individuals generally (i.e. the public or the victim). What then happens to make lawyers move away from the notion of role-differentiated behaviour? One possible explanation is the cultural attitudes and beliefs held by the lawyers.

5.4.1 Issues With Lawyers

Examining the narratives, several prisoner participants (who were able to have lawyers), highlighted several issues in obtaining adequate legal representation. In some cases these issues were not monetary issues, neither issues with police officers forbidding access to lawyers. The issues (according to the participants) were in relation to the lack of professionalism from the lawyers. For example, one participant maintained "*I had a lawyer my aunt assigned for me, but he was clueless the lawyer hadn't read my file. I had asked him [the lawyer] to let me face the girl [the accuser] but he did nothing...*" (Prisoner 2). Another participant explained "*with the first lawyer, he kept giving me excuses why he is not coming to see me in the police station*". Other participants complained that their lawyers were not experienced, and untrustworthy.

"The lawyer was just for show I could defend myself, I prefer that. I prefer to talk instead of the lawyer because they don't know what to say and when to say it..." (Prisoner 18)

"the lawyer kept promising me things and not carrying them out..." (Prisoner 17).

“I had three lawyers, because none worked...I paid the lawyers but they didn't do anything they just kept promising me things and getting paid and not doing anything, all the lawyer does is he keeps postponing...” (Prisoner 19).

Such actions result in numerous human rights violations as it threatens a person's right to a fair trial and adequate legal defence. Moreover, they dismiss Wasserstrom's role-differentiated behaviour theory, as lawyers are not acting in the interest of their clients.

5.4.2 Explaining Issues with Lawyers

There may be several factors that result in lawyers distancing themselves from the notion of role-differentiated behaviour, as well as unprofessional actions and human rights violations. These factors include: corruption, and the lawyers' attitudes towards sex offenders.

- (1) Corruption: Corruption can be used to explain unprofessionalism as in some cases the lawyers were accused of taking bribes in order to delay or throw out a case. New legislation has been put in place to try and prevent corruption.

“There have been lawyers and judges that have been removed recently and it is only been recent and that is a very good thing because if discipline of judges and lawyers is not introduced then we will keep on having corruption and bad processes within the judicial system...” (Lawyer 3).

However, the success of the new legislation is unknown.

- (2) Problematic Attitudes: Some prisoners interviewed highlighted the difficulty in obtaining lawyers due to the nature of their accusations. *“You need to understand that it is sometimes difficult to get a lawyer, even lawyers have problems dealing with such cases as mine...”* (Prisoner 8). In total two out of eleven lawyers openly admitted to refusing to take on defending sex offenders. The first lawyer stated *“crimes like prostitution and the sorts, I personally have not taken any accusations... anyway it is really hard to defend them unless they have mental illnesses”* (Lawyer 8). While the second lawyer claimed *“mostly we don't take perpetrators because of our morals...”* (Lawyer 9). Moreover, when searching for lawyers to participate in the study, numerous lawyers refused claiming they have never worked with sex

offenders. It can be hypothesised that these lawyers might have also held such beliefs that prevented them from taking on any sex offender cases. This finding further disproves Wasserstrom's role-differentiation behaviour theory as it shows that lawyers have not relinquished their morals in order to defend their clients. Moreover, it results in presuming people are guilty before they are even tried which is problematic to a fair trial. The finding further highlights the role culture can play in resulting in human rights violations. According to cultural relativism "culture is the sole source of the validity of a moral right or rule" (Donnelly, 1984:400). It is therefore important to consider a countries culture when examining criminal justice issues (See Chapter Two).

Within Lebanese culture sex offences are a taboo and are associated with family violence, honor crimes, and shaming. They are also seen to be crimes against religion and within countries such as Lebanon religion is of upmost importance. It is therefore no surprise that lawyers may refuse to defend sex offenders. The refusal of lawyers to defend sex offenders is not specific to Lebanon. In 2013, lawyers refused to defend an accused Indian gang-rape case, due to its conflict with morality. Sanjay Kumar, a lawyer and a member of the Saket District Bar Council was quoted "we have decided that no lawyer will stand up to defend the rape accused as it would be immoral to defend the case" (The Express Tribune, 2013 January 2).

5.4.3 Delays

In addition to issues with the lawyers, there are general issues with the court procedure. One of the main issues, which was previously touched upon in Chapter Two, is the delay of the court process. The literature surrounding the delays focuses on the backlog of cases due to the lack of technology. In regards to delays, two participants claimed:

"The judge has had the file since three months ago until now for the accusation of drugs and still I know nothing..." (Prisoner 3).

"...the police haven't sent it in the official report to the judge. Six hearings and there is no paper, he postpones and postpones and postpones and postpones..." (Prisoner 5).

Situations such as the one mentioned above might be avoided with the introduction of electronic databases and more stringent monitoring of the process (See Chapter Seven).

Other participants attributed the delay to several other factors. For example, one participant claimed it is because of the situation within Lebanon that his court cases keep getting postponed. *“Everyone is more interested in the politics... we have no government here. How are things going to be solved?...”* (Prisoner 10). Lebanon is currently in a state of turmoil with various outburst of violence, no government nor president. Moreover, according to the U.K. Government’s Foreign Travel Advice areas of Lebanon are at high risk of terrorist attacks by Islamist extremists. It is because of the unstable situation that the administration of justice is affected. This finding re-enforces the argument provided in Chapter Two that a countries’ political situation may have an effect on the enforcement of human rights. It is for this reason that investigating a countries political situation is important, as may result in human rights violations such as the one mentioned above.

Another cause of delay within the court system is the low number of judges. One lawyer highlighted *“the number of judges aren’t very high in relation to the number of cases present... each judge can approximately have in each sitting forty to fifty files”* (Lawyer 1). The Lebanese government has not been able to hire additional judges or train court staff (See Chapter Two). Some reasons for this lack in hiring and training are due to the lack of skills, institutional development and economic difficulties (The World Bank Online, 2003).

Despite the cause for the delays, it is evident that it is an issue and a violation of human rights. Moreover, the delay of cases poses the risk of arbitrary detention. The delay of cases results in arbitrary detention/arrest, as individuals are at risk of being imprisoned for months or years for a crime they did not commit and therefore will not be found guilty of. This issue was highlighted by a judge who claimed: *“The courts are very slow, and some people are imprisoned even when they are innocent”* (Judge 6). The delay of cases can range from anywhere between one month and several years. This delay might be extended if the individual does not have a lawyer following up the case.

“The case file sits between the period when investigators start until a sentence is given in all stages of the court, it is possible to stay for four or five years... if he doesn't have a lawyer no one to follow and defend his file and follow the courts then it is possible that it would take even more time” (Lawyer 1).

Corruption also plays a role in the delaying of court cases as in some cases judges and lawyers hide case files and important documents. According to a lawyer participant, *“If no one pays him [the judge] then the case file stays in the drawer... there is a lot of corruption, the case file does not go through unless a certain amount of money is paid... if no one pays him then the case file stays in the drawer”* (Lawyer 1). This tampering with the individual’s right to a fair trial can be attributed to economic factors, as judges and lawyers salaries are relatively low within Lebanon. However, the low wages alone cannot attribute to all of the corruption within the court system, the lack of monitoring and repercussions also play a role.

The Ethos of Public Administration Theories can also offer an explanation. This theory is closely related to Organisational Cultural Theories as it examines the culture within “public management and society in general” (Graaf, 2007:53). Within these theories, political and economic structures are examined. As a result, corruption is seen to be a consequence of societal pressure through the level of organisations and lack of integrity that results in a focus on ‘effectiveness’ (Graaf, 2007:53). This implies that people, for example judges, lawyers and police officers are more interested in proving their effectiveness. These theories may therefore explain the use of flaking and padding by police officers, as well as the taking of bribes and delaying court cases.

It is important to note that there have been recent developments surrounding the monitoring and accountability of judges.

According to lawyer participants:

“if anyone is caught taking bribes or money then they are punished, even if it is a judge... if there is proof then they are punished...” (Lawyer 4).

“There only recently been reintroduced for judges disciplinary actions that could be taken that could lead the judge to be removed and lawyers disbarred” (Lawyer 3).

These developments are only recent, despite the fact that the Lebanese Constitution has always provided punishments for corruption. “Judges who commit crimes in connection with their jobs, such as taking bribes, are subject to criminal prosecution on condition that a permit

is issued and which may lead to a trial according to special procedures before the Court of Cassation in bank, or the Criminal Chamber thereof, depending on the judge degree (Article 44 of the Judiciary Law)” (Chalhoub, 2004:29).

5.4.4 Political and Religious Influences

In addition to allegedly receiving bribes, judges within Lebanon are criticised for being under the influence of political and religious individuals. Numerous participants acknowledged the lack of judicial independence, and the effects of using ‘*wasta*’ (connections) during court proceedings. For example, one participant stated *“The judge he was good. He was good with me, but it was only because I had support from the general prosecution... if I did not have support then he would have treated me differently I am sure...”* (Prisoner 25).

The same participant (Prisoner 25) who was imprisoned for adultery claimed to have been raped prior to her husband’s accusing her of adultery. *“Do you know how long my rapist stayed in prison? Fifteen days only... because he is supported by someone, this is what I am telling you. The people who have support from others are very lucky”* (Prisoner 25). Her claim highlighted how, due to connections some may be released early. The female ‘adulteress’ had been imprisoned for four months and was still awaiting trial. This is a lengthy detention period compared to the short detention period her rapist incurred.

Chapter Two has detailed the various ways in which political figures intervene in the court process. It usually entails the judge receiving a phone call demanding a lenient or more stringent sentence for a specific offender. None of the participants acknowledged such an event, however this does not mean it does not occur in the cases of sex offenders. Within recent years, there has been a move towards ensuring the independence of the judiciary within Lebanon. This has involved an increase in the monitoring of judges by the Judicial Inspection Unit. However, as the findings have shown corruption, bribery and external influences still exist, therefore the monitoring’s success is still questionable.

The Office of the United Nations High Commissioner for Human Rights claims in order for the judiciary to be independent there ought to be a separation of powers. The separation of powers therefore should result in three separate branches of the government: the Executive, Legislature and Judiciary (Office of the United Nations High Commissioner for Human Rights,

n.d.). This separation does not only aid in the decision making process, but according to Salzberger, it helps prevent abuse of powers. "One of the essential tools designed to prevent these agents from abusing this power is its division into different functions, to be exercised by different branches of government with different representation structures that can check and balance each other" (Salzberger, 1993:349). Separation of power does not really occur within Lebanon, as various political and religious figures influence judges' sentencing. This is despite the United Nations High Commissioner for Human Rights emphasising the importance of the separation of powers is important. "Only an independent judiciary is able to render justice impartially on the basis of law", while "also protecting the human rights and fundamental freedoms of the individual" (Office of the United Nations High Commissioner for Human Rights, n.d.:115).

One way in which religious figures influence criminal justice is for example in family legislation. "*Religious people are also too involved in family legislation which is an obstacle to the criminal justice system...*" (Lawyer 3). Another way in which religion influences judges is when "*religious figures sometime intervene on behalf of one party to get them [the accused] out of the situation...*" (Judge 2). Religion is able to get involved in criminal justice proceedings due to the corrupt judges, the failure to separate powers, and finally due to the importance placed on religion within Lebanon. Within Lebanon "*Religious authority oversees law, it is why also adultery is a crime...*" (Lawyer 10). In addition to religion, "*politics are directly involved...a party tries to save a suspect despite others accusing him/her so they [the party] can gain political stance. This involvement is rarely fair especially in this social environment...*" (Judge 1).

In addition to religious and political influences public confidence can affect the effectiveness of judges. "Whenever this confidence begins to be eroded, neither the judiciary, as an institution, nor individual judges will be able to fully perform this important task, or at least will not easily be seen to do so" (Office of the United Nations High Commissioner for Human Rights, n.d.:115). The lack of confidence in the Lebanese criminal justice system has been highlighted at several points throughout this study (See Chapters One and Two). This lack of confidence can be attributed to the failure to sentence offenders as well as the acknowledgment of the presence of political pressure and corruption.

Other challenges to the independence and impartiality of the judicial system include: (1) corruption and (2) the means by which judges and lawyers are appointed (Office of the United

Nation High Commissioner For Human Rights, n.d.:117). In relation to the appointment of judges and lawyers, impartiality and the independence of the judiciary are affected if “they are appointed exclusively by the Executive or Legislature, or even when they are elected” (Office of the United Nation High Commissioner For Human Rights, n.d.:117). Chapter Three has highlighted how the electoral proceeding of judges affects its independence.

5.4.5 Discrimination

Bending under political and religious pressure is only one criticism of judges; another criticism involves judges being xenophobic towards suspects. For example, one prisoner participant claimed, “*The judge was xenophobic, he told me you are Syrian go back to Syria. He spoke to me in a really bad way, it was all because of my nationality, that is why I was in more trouble*” (Prisoner 2). As the example above highlighted, several prisoners interviewed for this study touched upon xenophobia and discrimination. Examining prison participants’ interviews, racial discrimination was not frequently mentioned; however, xenophobia was. The lack of the mention of racial discrimination may be attributed to the fact that participants were all White and of Middle Eastern origin. Therefore, racial discrimination may be a frequent occurrence, just not touched upon here due to the participants’ ethnicities.

Discrimination within criminal justice systems is not confined to the situation within Lebanon. In fact the media has recently highlighted how police within the United States are disproportionately using excessive force against black ethnic groups, a form of racial discrimination. Conflict theorists have put forward an explanation for the occurrence of racial discrimination within criminal justice systems. “Conflict theorists perceive society as comprising groups with conflicting values with the state organized to represent the interests of the powerful ruling class” (Banks, 2004:68). They argue that “groups that threaten the power of the rulers are more likely to be the subjects of social control; that is, these groups are more criminalized and suffer greater rates of incarceration” (Banks, 2004:68). It is possible to apply conflict theories to explain xenophobia within criminal justice systems.

According to one participant who experienced xenophobic attitudes from judges, he received harsher sentencing because he was Syrian. The history between Syria and Lebanon is complicated, as Syria occupied Lebanon for over thirty-nine years (1976-2005). Under the Syrian occupation, the Lebanese witnessed numerous violations such as unjust trials, disappearances, murder and rape by Syrian officers. For these reasons, many Lebanese still

hold grudges against the Syrian state. It is because of such situations that it is important to examine a country's history in addition to its demographics, political arena and economic status as that too may give way to violations such as discrimination.

5.4.6 Lack of Defence

According to the several human rights legislation everyone has the right to a fair trial. To ensure a trial is fair the accused should be able to defend him/herself. This is not always the case in Lebanon. Despite whether a person is Lebanese or foreign, numerous participants claimed that they were not able to adequately defend themselves in court. The lack of adequate defence was attributed to the inadequacy and/or the absence of lawyers, lack of permission to speak, and lack of witnesses and evidence. For example, participants claimed:

“You don't need anyone to listen to you in the hearing, the judge talks to you two words and then says God be with you...” (Prisoner 3).

“...the only thing they ask you in court is your name and mother's name” (Prisoner 2).

Many other prisoner participants reiterated this situation. However, it was noted that the lack of opportunity to defend oneself was increased when participants did not have a lawyer as they claimed judges would not let them speak.

In addition to the inability to defend oneself due to lack of opportunity, some participants claimed that there was a lack of the use of witnesses.

“It seems he [the judge] has sent for the others [the accuser and the witnesses] and they aren't coming...” (Prisoner 1).

“...the accuser was never in any of the hearings, so a lot of my hearings were postponed”
(Prisoner 10).

Several international and national legislation surrounding human rights stresses the importance of the right to examine witnesses for a person's defence. For example, according to Article 16(5) of the Arab Charter of Human Rights, everyone has the “right to examine or have

his lawyer examine the prosecution witnesses and to on defence according to the conditions applied to the prosecution witness” (Unknown, 2005). In some cases judges may decide it fair to continue proceedings without the use of witnesses. This however may hinder a person’s right to a fair trial.

Further violations to a person’s right to a fair trial occur when individuals miss their court hearings due to their imprisonment. According to two participants they were unable to attend their trial because the prison management did not allow or set up the appropriate travel arrangements. For example, one prisoner participant claimed: *“They did not take me to my hearing, they said something about not having enough cars to take me. I was sentenced without being in court.”* (Prisoner 23). Another prisoner stated: *“She [the warden] just told me I wont be going to court she didn't say why. She just said I am not going, anyway maybe it is better”* (Prisoner 26). Preventing the attendance of an accused at court and not giving them an opportunity to adequately defend themselves is a sign of corruption and a grave human rights violation as it affects the individuals’ chance at a fair trial.

5.5 Prison

Participants’ accounts and experiences of entering prison varied, not only according to prisons but also according to individual experiences. The variation was in the amount of violence and violations that occurred during the entry process. A few prisoners noted that they did not experience any violence or forms of violations and, the entry process was *“normal”* (Prisoners 10, 16, 17, 20, 23, and 25). However, some prisoners experienced human rights violations from the start. Chapter Six disseminates findings surrounding the process of entry to prisons; this chapter in contrast examines the issues within this process. Issues with the process occur when entries are treated in a way that violates human rights. One example is when prison guards *“shave our [prisoners’] heads down to zero and they move on to the next one and do the same, with the same blade...”* (Prisoners 2, 6 and 7). The use of the same blade results in a heightened risk of contracting contagious diseases and so is a violation of Universal Declaration of Human Rights Article 25(1)’s right to a standard of living adequate for the health and well being of the individual. In addition to the unsanitary shaving of heads, prisoner participants also reported violence and humiliation during the entry search process. Part of this entry process is the strip searches.

5.5.1 Strip Search

Strip searches are conducted in prisons across the world with the aim of:

- (1) “Preventing escapes
- (2) Deterring and detecting threats to the security, order and control of the prison
- (3) Reducing the number of illicit and unauthorised articles present
- (4) Reducing harm to self and others
- (5) Searching contributes to a safe and decent environment by being proportionate to the risk assessed” (Ministry of Justice, 2011:3).

Internationally, there are guidelines concerning how to conduct strip searches in a way that that does not cause any unnecessary humiliation for the prisoner (see Appendix Eight). However, prison guard participants did not mention the process of the search nor any guidelines available (See Chapter Six). Prisoners on the other hand, did provide some information, even though they tended to brush over the process. For example, two participants detailed their experiences of being stripped searched. *“I was searched when entering prison, I was searched in a bad way, I was forced to take my clothes off in front of fifty people, in front of the police and prisoners...”* (Prisoner 19). The second participant discussed the issue of being strip searched by prisoners and the use of violence during the search. *“The prisoners searched me and not the guard. If the guard hit me then I am fine, but it is the prisoners who are worse off than me, they hit me and they strip searched me...”* (Prisoner 22). This participant’s statement highlights two important points, the first of which is the lack of prison guard control and the use of physical violence.

5.5.2 The Lack of Prison Guard Control

The lack of prison guard control within prisons is evident when prisoners take on the role of prison guards. Within some prisons this extended further than the search of new entries (previously mentioned), as prisoners were in charge of: (1) allocating rooms, (2) visitation and (3) phone call privileges.

“They [the head prisoners] did not let us out of the cell, not at all, God forbid. Not at all. I mean if we go down to the visiting rooms that is it. The head prisoners would follow us and his companions they follow us down and take us to the visiting rooms and stay with us in the rooms until we finish... they listen to us talking and interfere and watch us...” (Prisoner 3).

The lack of control by prison guards was highlighted when several participants claimed that they have had no form of contact with prison guards since their arrival to prison. For example, Prisoner 3 claimed: *"I didn't see anyone from the guards at all except when it was time for the counting. The prison guards would come in to count and directly go out"*. Prison guards supported prisoners' claims when they acknowledged their lack of control within prisons. Several guards claimed, *"We [prison guards] aren't in control, it is the prisoners"* (Prison Guard 3). This lack of control by prison guards may be attributed to three factors, the lack of specialization, overcrowding and the lack of segregation.

- (1) Lack of specialization: It is important to remember that within Lebanon, prison guards are police officers. They therefore, do not undergo any specialised training in the management of prisons, nor in working with prisoners (See Chapter Six). Because of the lack of training, numerous judges within Lebanon have been lobbying to transfer the management of the prisons from the police to the department of justice. *"The police should be there just to protect the prison from the outside, but not the ones to manage it..."* (Judge 6).
- (2) Overcrowding: The effects of overcrowding (whether in Lebanon or internationally) have been documented by numerous different studies and publications (See Chapter Two). It is important to take overcrowding into account as it, like any demographic, plays a role in promoting human right violations. It is argued that human rights are more likely to be violated if the population exceeds the available resources. The availability of resources (sleeping, food, etc.) has been examined throughout Chapter Two. However, the lack of prison guard control as a result of overcrowding of prisons has not yet been examined.

As was previously mentioned (Chapter Two) the maximum capacity of Lebanon's twenty-one adult prisons, is listed as 3,653 inmates yet, it is reported that there are *"between 5,876 to over 7,000 prisoners currently detained"* (Sikimic, 2011). Throughout the interviews, both prison guards and prisoners have highlighted the effects of this overcrowding. Numerous prison guards claimed: *"There is no space, not enough rooms..."* (Prison Guard 2). *"There are seventy to eighty people in one room. Where are people going to fit? They have to make them sleep"* (Prisoner 3). Prisoner

participants within two prisons spoke about the difficult sleeping arrangements resulting from the overcrowding.

Describing the difficulty Prisoner 3 explained:

“ They [head prisoners] made us sit in the middle of the room, they used to extend us all in the middle and make us sit squatting down from the morning till 10 pm. When 10 pm comes they used to say come on get up to bed. The head prisoners made us sleep head to feet and pushed us together....”.

- (3) Lack of segregation: Prison Guard 1 claimed *“Overpopulation is definitely a problem and that there is no segregation of crimes. They are all put in together, there is no segregation”*. This lack of segregation coupled with overcrowding results in prisoners not only outnumbering guards but also forming their own ‘gangs’ and ‘mafias’ leaving the guards powerless.

Numerous prisoner participants highlighted that the ‘head prisoner’ is in control of the prison. However, as was previously stated, the experiences vary within prisons. Therefore, in some prisons the prison guards are in control of the prison. When prison guards maintained control of prisons, the head prisoners were usually people chosen by the prison management to aid in the smooth running of the prison. They were therefore appointed according to their good behaviour and are used in hopes that they will act as a bridge that aids in the communication between guards and prisoners. This situation is extremely different from that in ‘uncontrolled prisons’ where prison guards have no control. The head prisoners within such prisons are those who achieved the position due to installation of fear and superiority in the prison. This superiority might be achieved through connections to an important figure, or party outside the prison. The superior status may also be a result of his/her crime and the fear he/she instils in fellow prisoners. In such circumstances, head prisoners often tend to use physical force to control the prisoners.

Prisoner participants from an ‘uncontrolled’ prison elaborated on the violence used by head prisoners. For example, Prisoner 3 claimed *“The head prisoners made us sleep head to feet and pushed us together and whoever lifts his head they directly hit him with their feet their boots on their mouths, wherever the hit comes, it comes”*. The Universal Declaration Article 5 protects

humans from torture or cruel, inhuman or degrading treatment and punishment. However, as the narratives of the participants have come to show just because Lebanon has signed the appropriate legislation, it has not prevented the use of torture.

5.5.3 Violence Within Prisons

The use of physical violence was not restricted to head prisoners, and instead numerous participants reported other inmates and prison guards used violence against them. For example, several participants claimed they had experienced beatings by other prisoners, which in some cases escalated when prisoners knew the individual's accusation. Prisoner 1 reported: *" I went in and when they found out what my story was, one grabbed me from my legs and covered my face with a cloth or I don't know what. They dragged me to the toilet, and they beat me..."*. Because of the fear of violence due to accusations, prisoner participants informed me that other prisoners did not know of their accusations. The prisoners claimed that they lied about their accusation, and informed prisoners they were accused of theft, murder or some other crime.

Prisoners who experienced violence from other prisoners claimed that they had attempted to report the violence to the prison guards. However, in most cases the prison guards did not react or *"one person would transfer the complaint to another"* (Prisoner 1). Ignoring prisoners' complaints of violence condones the acts, as there are no consequences. There are numerous reasons why prison guards might 'turn a blind eye' towards the violence. One possible explanation is the commonly held belief that they [prisoners] deserve the violence. This belief occurs when torture is seen as a punishment and therefore a form of retribution. Moreover, another explanation put forward might be the lack of control of prison guards within prisons.

In addition to ignoring violence between prisoners, prison guards were also accused of discrimination according to offence. Several prisoner participants claimed prison guards increased hostility when the nature of their accusations came to life. For example, one prisoner claimed: *"The first time I was searched, I was searched normally then they asked me about my accusation. When I told them, they searched me again, made me strip down in front of people. They then threw bottles at me and yelled and cursed at me"* (Prisoner 8). Increasing the use of violence due to the individual's accusation is a form of discrimination.

When examining the literature surrounding discrimination within criminal justice systems, it mostly revolves around the most common form of discrimination, i.e. racial discrimination. However, as this chapter has shown other forms of discrimination exist within Lebanon, i.e. discrimination according to nationality. Therefore, although discrimination is usually referred to on the grounds of race, age or sex, the definition of discrimination means it can extend to include discrimination due to offence type. The Oxford dictionary classifies discrimination as “the unjust or prejudicial treatment of different categories of people”. This can be applied to discrimination according to offences; as for example sex offenders are considered to be a category of people. Discrimination against sex offenders can be seen throughout various stages of the Lebanese criminal justice system, i.e. during detention, upon entry to prison, and within courts and prisons. Because of its abundance within the various criminal justice stages, it can therefore be argued that this form of discrimination is institutionalised within Lebanon. However, similar to torture, discrimination does not happen to all prisoners. Experiences may vary due to numerous reasons; one such reason is the use of connections.

As was previously mentioned, if a prisoner is well connected then he/she is less likely to experience torture or any other violations, this includes discrimination. This is because the head prisoner and/or prison guards will protect this individual from such actions. The role of connections as a form of protection will not be re-discussed as this chapter has already touched upon it at various different points. However, one aspect that needs to be examined is the use of connections to obtain forbidden articles and preferential treatment. A few prison guards detailed how “*Corruption, drugs and everything and anything that has been prohibited is going on in prisons...*” (Prison Guard 3). This implies that in order to obtain ‘*prohibited items*’ prisoners would either use their connections and/or take advantage of the corrupt prison guards. Both actions are a sign of corruption within the prison system.

In addition to the use of connections, participant findings revealed that corruption was present in various forms within the prison. One such way is the acceptance of bribes. Participants claimed police officers took bribes - not to shave heads, to be placed in a better cell, or to be able to access things such as mobile phones. The reasons for corruption have been previously examined within this chapter, however one important factor is the lack of punishment. Police Officer 3 claimed: “*Reasons for corruption is because there are no punishments for corruption. I mean when a person is corrupt, instead of punishing them, they encourage them to be corrupt. You can't get to posts without being corrupt...*”

5.6 Release

When examining release although interviews with prisoners were meant to shed light on recidivism, only two participants were recidivists. Among such participants the common response was that there is no preparation for release (See Chapter Six). When other prisoner participants were asked about release, most participants were not concerned with the lack of preparation. This was due to the belief that they did not need any help upon release, as their family were enough support to ensure their reintegration and prevent recidivism. *"...When someone does something bad, he is not only blamed, but it affects the brother, the mother and the whole family... I will not do it again"* (Prisoner 2). However, a few participants (first time offenders) did acknowledge that it would be hard to reintegrate. For example, Prison 8 stated: *"There is a problem here, here in Lebanon it [sex offences] is a taboo subject there is too much taboo surrounding sex offences and that is why it is very hard to reintegrate people accused of such a crime..."*.

Judges further verbalized the lack of preparation for release and the difficulty in reintegration of offenders. However, unlike prisoners, judges and lawyers highlighted importance of reintegration to prevent future victimisation, rather than for the comfort and success of ex-prisoners.

According to the Penal Reform International:

- (1) "Re-entry planning begins in prison with programmes throughout an offender's sentence. Prison officials must be aware that reintegration is a core part of their work, it should be included in mission statements, training curriculum and job descriptions.
- (2) Management of reintegration comes under more than one jurisdiction so coordination, partnerships and effective joint working is essential
- (3) Need to effectively manage prisoners' transition back into the community on completion of their sentence" (Nikhil, 2013:7).

The successful reintegration of an offender is therefore dependent on seven areas that need to be addressed before the release of an offender. These include:

- (1) Accommodation
- (2) Education, training and employment
- (3) Health
- (4) Addressing drugs and alcohol issues
- (5) Addressing finance, benefits and debt
- (6) Examining the familial situation
- (7) Examining attitudes, thinking and behaviour of the offender.

Examining these seven areas, it becomes evident that many can be linked to human right legislation. For example, within the Universal Declaration of Human Rights Article 26 claims that everyone has a right to education, this article can therefore be linked to the education, training and employment area needed for successful re-integration. However, despite the importance of such guidelines and recommendations, preparation for release does not occur within Lebanon. The lack of preparation is creating a problem according to judges and lawyers. Judge 7 claimed *"... when people are going out of prison they are having a lot of trouble because they can't get jobs because of their criminal records. It is all because the government can't and isn't doing anything"*.

5.6.1 Monitoring

Due to the lack of monitoring, follow-ups and surveillance that aim to reduce recidivism (See Chapter Six), judges and lawyers stated that they would rather keep them in prison.

"... Shouldn't he be left in prison to stop him from hurting his children?..." (Judge 3)

"The judge cannot oblige a hospital to take him in and the government does not have the means so we were forced to keep him in prison..." (Lawyer 1)

"There is no surveillance here to not put people in prison..." (Lawyer 4)

However, according to human rights legislation, unless there is an evident risk, sentences cannot be extended, as it will result in arbitrary detention, which is a violation of human rights.

Conclusion

Scrutinizing the findings it becomes evident that there are significant human rights violations that occur throughout the Lebanese criminal justice system. These human rights violations included:

- Excessive use of force by police officers and civilians upon arrest
- Inappropriate use of citizens' arrest (i.e. citizens entering private homes and conducting an arrest)
- Failure to read the arrestee's rights to him/her
- Failure to inform the arrestee why he/she has been arrested
- Forced confessions
- Refusing detainees communication with family members and/or lawyers
- Withholding medication
- Corrupt police leading to human rights violations such as accepting bribery to release people or set people up
- The ability to use of connections to receive preferential treatment or early release
- Lawyers refusing to defend sex offenders and/or not being present at meetings
- Judges hiding case files in order to delay the court process
- Judges succumbing to political and/or religious pressure while sentencing
- Discrimination and xenophobia
- Preventing sex offenders from defending themselves in court
- Violent and degrading treatment during prison entry processes
- Violence by fellow prisoners and/or prison guards
- Lack of sleeping space due to overcrowding

Many of these violations mentioned are interlinked as one violation usually results in numerous other violations. For example, corruption (which in itself is a violation) results in preferential treatment, unfair trials, and the lack of accountability (all of which are separate human rights violations). Therefore, it can be said that targeting one problem (for example the problem of corruption) would help tackle other violations. However, how are these problem areas meant to be tackled when human rights violations are culturally and structurally embedded? Examining the factors that attribute to human rights violations (See Chapter Two), it can be argued that if these main factors (i.e. political, economic and cultural factors) were targeted

then enforcement of human rights would be possible. However, as the findings have highlighted there are other factors that play a role and these include personal beliefs, police culture, the lack of monitoring and accountability. Therefore, in order to target human rights violations all the factors need to be examined.

In general the findings of this study have highlighted the un-universality of human rights, as well as the punitive nature of the Lebanese criminal justice system as human rights have generally been ignored within Lebanon. The numerous human rights violations that occur within Lebanon, the lack of accountability of violations, and the lack of rehabilitation and treatment result in Lebanon's criminal justice system being punitive in nature. A vicious cycle has therefore been formed where due to the violations, the Lebanese criminal justice system is punitive, and due to the focus on punitiveness human rights violations occur. In order to break this cycle more importance should be placed on human rights, however for that to occur the structure of the criminal justice system, alongside culture has to be examined and re-evaluated. As Chapter Three has shown, there has not been much literature published surrounding the current structure of the Lebanese criminal justice system. It is for this reason that Chapter Six will examine the structure and process of criminal justice. Such an examination will further aid in understanding the occurrence of human rights violations.

Chapter Six

Punitiveness and the Lebanese Criminal Justice System Process Findings

Introduction

This chapter will aim to examine how Lebanon fits into the current global popular punitive climate (See Chapter One). This will be carried out through providing the findings derived from thematic analysis of the interviews. Once the argument that Lebanon is in fact punitive is re-enforced, this chapter will further examine findings surrounding the process of the Lebanese criminal justice system. Chapter Three (the Lebanese Criminal Justice System) attempted to examine the literature surrounding this process in relation to sex offenders. However, there is currently little to no discoverable research surrounding the trajectory of sex offenders through the criminal justice system. What little research does exist focuses on the detention of sex workers and Lesbian, Gay, Bisexual and Transgendered people (See Chapter Three). This chapter therefore aims to fill in the gaps and provide a detailed description of the criminal justice process from the point of view of criminal justice agents and sex offenders. It will examine, the processes of: arrest, detention, the court, prison, and release. There may be some overlapping between this chapter and Chapter Five 'Human Rights Violations Findings', this is because in order to highlight the human rights violations some aspects of the process of the criminal justice system had to be examined.

6.1 Is Lebanon's Criminal Justice System a Punitive System?

As Chapter One has highlighted, popular punitiveness can be characterised by:

- (1) Increased sentencing,
- (2) Harsher penalties
- (3) The use of capital punishment
- (4) The use of indefinite sentences and
- (5) Intrusive video surveillance

In addition to such characteristics, Monterosso (2009:16) added the “abandonment of procedural safeguards that serve to protect people from the abuse in the legal environment”. This section will examine how Lebanon fits in with these characteristics of punitiveness, and later provides the finding surrounding the Lebanese criminal justice system to further strengthen this standpoint.

6.1.1 Lebanese Policing and Punitiveness

A part of this popular punitiveness climate, is the populist policing and populist security (Jones, 2010). Populist policing includes things such as ‘zero tolerance policing, and visible foot patrols’ while populist security includes “favouring gated communities, ‘anti-terror control orders, water boarding and other physical interrogation methods” (Jones, 2010:335). Because physical interrogation methods are considered to be part of the popular punitive climate, Lebanon can be seen to be part of this climate. Both this chapter and Chapter Five touch upon the use of physical methods during interrogations. These methods included the use of torture on detainees. The use of such methods falls under the ‘populist security’ phenomena and therefore result in Lebanon being part of the popular punitive climate.

6.1.2 Lebanese Laws and Punitiveness

In relation to Lebanese laws and sentencing, on the surface, Lebanon’s sentencing (examined in Chapter Three) does not seem to be very punitive in nature except for the laws that criminalise homosexuality. According to numerous prison guard participants:

“Homosexuality is a moral offence, against religion. If they are not in prison they should be treated, this is not what God designed, it is not nice for society... We are different societies, it [homosexuality] destroys society...” (Prison Guard 9)

“Homosexuality should be a crime, I don't care if in other countries if the government allows it... we don't accept it, no one will accept it, it gets diseases so should be punished so they know it is wrong...” (Prison Guard 7).

A sign of popular punitiveness is the harshening of laws, when laws are examined within Lebanon there is no argument that claims that sentencing has in fact harshened. One reason why this has not yet occurred is because, laws within Lebanon are out-dated and therefore have not been amended. It can therefore be argued that laws are punitive due to the failure to

amend and modernise them leaving criminal justice agents with the ability to criminalise acts which according to international standards are not criminal (i.e. homosexuality).

“These articles were written but they are extremely old, and they have not been developed with the development of society, international societies and with the development of laws. There are articles that are used that are not even understood well” (Lawyer 1).

In addition to out-dated laws, Lebanon still uses capital punishment. This is despite the fact that there is no link between capital punishment and repressing homicide or violent crime (McGuire, 2002). From a total of twenty-six prisoner participants, one participant was sentenced to death for attempted rape and murder. It is important to note however, that although Lebanese courts still issue the death sentence, these sentences have not been carried out. The last execution was in 2004 when three people were executed in Roumieh prison, one by hanging and two by firing squad (BBC News, 2004 January 17). In regard to the law and punitiveness, it can therefore be argued that due to the out-dated laws, criminalisation of acts based on perceived morality and the use of capital punishment laws are in fact punitive.

6.1.3 Lebanese Courts and Punitiveness

Examining the court process combined with the human rights violations mentioned in Chapters Three and Five, there is an argument towards describing Lebanese courts as punitive in nature. The reason for arguing that Lebanese courts are punitive in nature is due to the lack of rights provided to suspects throughout the various courts. The lack of legal representation, the lack of the use of witnesses and opportunities for suspects to defend themselves are all violations that result in mistrials. In addition to the lack of defence another aspect that results in punitiveness is the focus on confessions. Some of the judges within Lebanon tend to over-rely on confessions, despite the fact that many of these confessions are a result of torture.

“There is no honourable judge in Lebanon, look at my case, they have seen the report, the statement my wife has made and the police report which they forced me to sign” (Prisoner 10).

“They [the police] wrote in the report that I have had sexual relations with three men and I work as a prostitute. I accepted all these allegations, because if I don't they will kill me” (Prisoner 25).

As was previously mentioned in Chapters One and Five, the use of torture is a form of punishment. Therefore, the use of torture to obtain confessions further reinforces the punitive nature of not only the police, but also the judges that rely on the confessions as the main piece of evidence to convict offenders. In general, most prisoners felt like the *“Judge’s don’t care about us, they just see our crime not us”* (Prisoner 2). This shows that they are punitive in nature as the whole side of humanity is taken out of the process.

In addition to the punitive nature of the courts and punitive attitudes of judges towards sex offenders, xenophobia was also seen to play a role within the courts. One prisoner claimed, *“The judge was xenophobic, he told me, you are Syrian go back to Syria. He spoke to me in a really bad way, it was all because of my nationality, that is why I was in more trouble...”* (Prisoner 2). This xenophobia towards Syrians is a result of resentment against the Syrian regime’s control over Lebanon after the civil war (Nayel, 2013). A total of six out of twenty-six participants within this study were Syrians and felt that the criminal justice was more punitive towards them. For example, Prisoner 24 claimed: *“Why am I still in prison when the others have done worse crimes and are out before us? I’ll tell you why its because we are Syrian, if we were Lebanese accused of prostitution we would already be back home now”*.

6.1.4 Lebanese Prisons and Punitiveness

Lebanese prison conditions are extremely bad; all participants within this study highlighted the poor conditions. For example, one judge stated: *“Prison conditions are very bad... they are extremely punitive and there is no rehabilitation. In terms of it being punitive, it is inhumane, many of the Lebanese prisons not all of them are inhumane...”* (Judge 6). Prisons are inhumane in the conditions but also in the fact that they do nothing to help prisoners lead an offence free life once released. This is due to the lack of rehabilitation and support within as well as outside of prisons. The lack of rehabilitation can be due to numerous factors, which includes the lack of faith in its success, the lack of resources and/or a punitive mentality. One police officer highlighted the punitive mentality when he claimed, *“let him [prisoner] be punished and then after punishment be rehabilitation”* (Police Officer 2). It is due to such a mentality that rehabilitation fails to gain importance within countries such as Lebanon.

Moreover, such beliefs results in Lebanon being part of this current global shift towards punitiveness and a *“culture of control where criminal justice system have become more punitive and less oriented towards rehabilitation”* (Phelps, 2011:2). Numerous criminal justice

systems (not just Lebanon) rely on eliminative strategies where it is believed that in order to deter crime, criminal acts need to be linked to negative consequences. “In criminal justice decisions this is represented by deterrence-based sentences or punitive sanctions” for example, fines, use of custody, surveillance, shock incarceration and/or demanding physical regimes (McGuire, 2002:4). This punitive stance has led to a decline in rehabilitation and “in place of rehabilitation, deterrence and incapacitation became the explicit goals of prison in political discourse” (Phelps, 2011:2).

6.1.5 Release and Punitiveness

Finally, another indication of Lebanon’s punitive criminal justice system is the lack of support in the community for ex-prisoners. This lack of support may be a result of the Lebanese criminal justice system’s focus on punitiveness. It is evident from the narratives of participants that this focus on punitiveness can be seen throughout all the levels of the criminal justice system (i.e. from the point of arrest, to prison and even upon release). Criminal justice agents, it seems, fail to take into consideration what happens after the offenders serve ‘their punishment’ for the crimes as within Lebanon sex offenders are released back into the community with no surveillance or monitoring. It seems like the criminal justice agents are focusing on the punishment of offenders and almost forget what happens afterwards. Judges, lawyers and police officers all claimed that once a sex offender is released he/she is left on their own with no supervision. Judge 3 for example, highlighted this when he claimed once an offender is released:

“then he goes back to his house... we have no organisations following up on prisoners, they only have psychologists if the individuals want to see them... if he is released, he returns to the home where he can re-abuse his children. There is no one out there to help the families nor the offender... we don't know what happens when they are released” (Judge 3).

This focus on punitive measures is not specific to Lebanon and instead, people across the globe are supportive of punitive measures. This is despite official statistics, and studies of the impact of imprisonment, that do not show any unambiguous link between the severity of penalties (e.g. prison versus community sentences) and recidivism outcomes” (McGuire, 2002:5).

6.2 The Trajectory of Sex Offenders Through the Criminal Justice System

6.2.1. The Process of Arrest

As was previously highlighted in Chapter Three, there are two means that result in the arrest of a perpetrator. The first of which is someone lodges a complaint while the second is catching the suspect in the act. Most police officer and prison guard participants within this study focused on the reporting of crime “...so someone lodges a complaint, it is usually a victim, or a victims friend or family...” (Police Officer 2). In fact, there was no mention of cases where police officers or prison guards had caught a perpetrator in the act. This can be due to two factors. The first of which is that sex offences tend to happen behind closed doors or down alleyways and are therefore not very visible. The second factor might be the lack of exposure of police officers and prison guards to sex offenders. It is important to remember that the police within Lebanon have several jobs which include monitoring traffic, managing prisons, guarding prisons, as well as ensuring “laws and freedoms are protected within the limits of law” (Internal Security Forces Web site, 2005). This means that some police officers (depending on their placement) may go through most of their career without witnessing a crime occurring as they are placed within prisons or as traffic officers.

Examining the findings of police and prison guards surrounding the procedure of arrest, it is evident that most narratives were a description of the process rather than a detailed description of their experiences of the process. This may be a result of many participants not being a part of the process, and therefore only being able to recite the procedural steps they are taught. Despite whether they have been a part of the process or not, all police and prison guard participants described the procedural steps beginning with the issuing of complaints by victims. According to all police officer and prison guard participants a complaint is made either directly or twenty-four hours later.

“There are two ways for a complaint to be made. The first way is directly; this means that the crime is recent. Recent as in there has not been more than twenty-four hours between committing the crime and the victim reporting it. In this way the victim reports directly to us. While the second way is after twenty-four hours and this is usually done through the use of a General Prosecutor. It is the General Prosecutor who will then contact us when a crime is believed to be committed” (Police Officer 1).

Despite the means, once the crime is reported then the process of arrest and detention begins.

“the victim will then come and we [the police] start with listening to all the information. The information includes things such as what happened, what time did it happen, where did it happen, and who is the offender. After the statement is given, we identify the offenders, if the offenders have already been identified then we go and bring him in upon the decision of the Prosecutor” (Police Officer 1).

Within Lebanon, there is a lot of emphasis on the decision of the prosecutor, police officers cannot arrest or officially start interrogations without his/her approval. *“The complaint [the victim’s complaint] is lodged with us [the police], we take all the details and write up a report, this report is taken to the General Prosecutor. We cannot begin investigation until the General Prosecutor tells us to...” (Police Officer 9).*

According to participants, once the General Prosecutor gives the green light, they [the police] then send after the suspect/accused if he/she is not already detained. *“If he does not come, we [the police] go and get him by force” (Police Officer 4).* Most of the prisoner participants claimed that the police stopped them on the way to/from work, or entered their homes. Only two participants were stopped at police stations, after the police had requested their presence. Despite whether suspects/accused were arrested at home, on the way to work, or at the station, most prisoner participants claimed it was a physical and traumatic experience. The majority of prisoner participants’ narratives involved the use of torture and intimidation during the process of arrest (See Chapter Five: Human Rights Violations Findings). In addition to beating arrestees, twenty-two out of twenty-six participants claimed they were not informed of their rights or reasons for their arrest (See Chapter Five).

The prisoners’ narratives surrounding their experiences of arrest differs to the narratives of police officers and prison guards. Police officers and prison guards did not mention the use of force during the arrest. Moreover, in contrast to prisoner participants’ accounts, most police officer and prison guards claimed that the arrestee is always informed of his rights and the reasons for his arrest. However, one police officer claimed, *“it depends on the crime. But we usually tell him his arrest warrant...” (Police Officer 16).* Although this officer did not elaborate which crimes would result in the officers not informing the arrestees of his/her reason for arrest and rights, it may be possible that some sex offences fall into this category.

6.2.2. The Process of Detaining Offenders

As was previously mentioned, suspects can be arrested on their way to work, at home or once they are called to the police station. Once arrested, the general prosecutor gives the 'green light' and investigations begin. According to the police officers and prison guards, the process of interrogations of sex offenders can involve the use of doctors, the collection of evidence and asking the detainees questions. *"So when and if the Prosecutor agrees to let us go through with the investigation, we get this legal doctor to examine the patient and then the doctor submits a report"* (Police Officer 1). Testing victims for any evidence is a common reaction to rape cases, and in fact many countries have specialised nurses and/or forensic doctors responsible for rape kits.

6.2.2.a The Collection of Physical Evidence

This study does not examine the use of rape kits on victims therefore it is not able to argue its benefits, or any problems nor how frequently it is used. However, examining the narratives of prisoner participants it was evident that the use of doctors and in return these rape kits were not frequent. Many participants' narratives surrounding the court process highlighted that although they [the participants] had requested a doctor test the victims, this did not always occur. For example, Prisoner 2 claimed: *"I requested a doctor to examine her [the victim], the doctor never came and she was never examined. Let them examine her and find the proof that I was the one that did this thing. Let them find it. Where is the proof?"*.

Not standardising the use of doctors and rape kits means that there is a lack in the evidence collected. The lack in evidence collected might pave the way to the use of torture in order to obtain forced confessions. It is in situations like these that the structure and criminal justice process results in human rights violations. The lack of providing a doctor and the use of rape kits paves way to a human right violation, as it affects the suspect's right to a fair trial. This is despite rape kits and doctors examination not being the only form of physical evidence which may be used in rape cases. Other evidence collected while sex offenders are in detention includes physical evidence from the crime scene. Such evidence will be examined throughout the later section of this chapter when the trajectory of sex offenders through the courts is touched upon.

In addition to collecting physical evidence, questioning by police interrogators is obligatory. During the interviews, prison guards, and police officers failed to mention what types of

questions are usually asked during interrogations. However, one police officer highlighted that they [the police] in addition to interrogations, force the suspect to walk through the crime scene.

“I took him to where we found the body... I told the police officers to release him and he started walking. He was saying that he did not do it while walking, but then when he reached the place where we found the body he stopped and turned around to face me to talk to me. This is how I knew he did it. He stopped in that place because he did it and he knew and remembered the body. When he did this, I wanted him to run when they released him so I could shoot him, I wanted to shoot him for what he did” (Police Officer 3).

None of the other police officers and prison guards elaborated around the interrogation process of sex offenders. Instead, their narratives surrounding the detention and interrogation of sex offenders revolved around legal aspects and the setting of the rooms. This meant that narratives did not divulge the actual process of asking questions nor collecting and testing evidence. In fact, when participants [Police Officers and Prison Guards] were probed about the type and way questions were asked in the interrogation, they replied saying “normal”. This is extremely different to the narratives surrounding prisoner participants who detailed various human rights violations such as the use of torture and other degrading treatment. This contradiction between criminal justice agents’ accounts and those of prisoners begs the question of whether torture is seen to be ‘normal’ during interrogations.

Some of the reasons for the use of torture have already been examined in Chapter Five, however one aspect not yet examined is the lack of training. The use of torture by police officers during interrogations may be attributed to the fact that officers do not receive any form of training surrounding:

- (1) Interrogation techniques
- (2) Conflict resolution
- (3) Non-violent interrogations
- (4) Human rights

In fact, many police officers and prison guards claimed they learnt how to interrogate through experience. *“We watched others do it and then we did it... the more people you interrogate the*

more you learn how to know when they are lying or hiding something from us..." (Police Officer 8).

6.2.2.b Interrogation Settings

Officers claimed, *"handcuffs were not used, unless the suspect was seen as dangerous"* (Police Officer 16), and that interrogations took place in a 'normal' room. The claim surrounding handcuffs was not supported as most of the prisoner participants interviewed claimed that they were handcuffed within the police stations. As for the room, police and prison guards described the interrogation rooms as small white rooms with a table and a desk. *"Interrogation in the police station, takes place in a room like this, a normal room, they [the police] tie our hands towards the back and ask us questions"* (Prisoner 3). The only people present within this room were the police officers and the suspects. *"No one except police officers and the person being interrogated is allowed in the interrogation room during interrogations"* (Police Officer 2). This means that lawyers are not present during interrogations.

The exemption of lawyers from the interrogation process is not only a violation of human rights as it affects the right to a fair trial (See Chapter Two and Five), but it also paves way to numerous other violations. The presence of lawyers within the interrogation process ensures police officers uphold the rights of the detainee, as lawyers can act as witnesses to torture and also can therefore hold police officers accountable. According to Pearse and Gudjonsson (1997), lawyers are important in police interrogations, as they inform suspects about their rights and the legal complexities of the interrogations. Pearse and Gudjonsson continue to argue that the presence of a lawyers is important to ensure the rules of Police and Criminal Evidence Act (PACE) are adhered to, and to protect suspects from "police interrogation tactics" (Pearse and Gudjonsson, 1997). Within the U.K., PACE Code C paragraph 3.1. and 3.2 state the rights and entitlements of detainees. These rights include:

- "The right to have someone informed of their arrest
- The right to consult privately with a solicitor and have access to free independent legal advice
- The right to consult the PACE codes of practice,
- Where applicable the right to interpretation and translation,
- Where applicable, the right to communicate with their high commission, embassy or consulate, the right to be informed about the offence.

- Obtain legal advice
- Obtain a copy of the custody record
- If prosecuted the right to have access to evidence in the case before the trial
- Reasonable standards of physical of physical comfort, e.g. food, drink toilet and washing facilities, clothing etc.” (College of Policing, 2015).

6.2.2.c Lebanese Procedural Rules

Similar to the PACE, Lebanon has a set of procedural rules to follow during arrest and detention of suspects. *“It is stated in Law 47 of the penal Procedure Code. Detainees have the right to call whoever they want to tell them they are detained, they have a right to call a lawyer they wish to assign, a doctor and a translator”* (Police Officer 8). It is important to note however, that differences exist between the PACE and Law 47 of the Penal Code. Firstly, as was previously mentioned within the PACE, lawyers are able to attend the interrogation; this is not the case in Lebanon. Within Lebanon, detainees (if given this right) are only allowed to call the lawyer they wish to assign. However, this lawyer is unable to attend interrogations. *“...The lawyer does not attend the interrogation. So it is only to inform him [the lawyer] that he is there [in the police station]”* (Lawyer 1). According to some judges’ and police officers’ narratives, the reason for the lack of lawyers during interrogation is fear.

“Why would we want a lawyer there [during interrogations]? Why would we want them there so they can tell them how to lie and escape from prison? Its better they are not there, we don't want them there” (Judge 2).

Police Officer 1 claims lawyers are not present *“Because we are scared that the lawyer might tell the guy not to talk, so they can only call to assign them but they don't get involved in interrogations”*.

The effects of lawyers on the confessions of detainees has been examined by Pearse and Gudjonsson (1997:200) who found “highly significant relationships between the presence of a legal adviser and (1) a suspect’s decision to exercise the right to silence and (2) a suspect’s decision not to confess”. Moreover, Moston et al. (1992) found that legal advice resulted in suspects either admitting or denying the offence; full admissions were found to drop when a suspect had contact with legal advice. Such findings can reinforce the unwillingness of officers to allow legal representation during interviews; however, it is important to remember two

things. Firstly, in order to find someone guilty, there should be sufficient evidence therefore implying that a suspect's plea is not sufficient evidence of guilt. Secondly, human rights are paramount and should always be upheld (See Chapter Three); one such right is the right to legal representation and fair trial. Another difference between the PACE and Law 47 is that PACE contains more rights for detainees. Lebanon's Law 47 on the other hand, is very simplistic and only focuses on the rights to see a doctor, the right to informing a lawyer and family of his/her arrest, and in cases (when needed) the right of a translator.

As the narratives of prisoners' highlighted (see Chapter Five), Law 47 is not fully implemented within Lebanon. Its violation included the use of torture during interrogations, and forbidding detainees from calling family and legal representation. This is surprising as judges, lawyers, police officers and prison guards all spoke about how cases are made redundant if Law 47 is violated.

6.2.2.d Detention Period

Examining the length of detaining offenders, numerous police officers, judges and lawyers claimed offenders are detained for three to four days. *"By law, they [detainees] are detained at stations for four days"* (Police Officer 18). Examining narratives of prisoners it is evident that this is a misinterpretation of the Lebanese Penal code that states the length of detention is forty-eight hours. This period however, can be renewed once if a legitimate reason is provided hence four days detention is not considered to be a violation. However, it is not legally required to detain a suspect for four days.

Numerous prisoner participants claimed they were imprisoned for more than four days, some claiming that it took several days before interrogations began. For example, one prisoner claimed, *"It took seven days after being stopped before they took me to the investigation judge and they told me why I was stopped"* (Prisoner 26). In principle, if police officers want to extend the detention period they are required to obtain official permission from the General Prosecutor or else they need to either release them or move them to prisons.

It was found that the length of detaining suspects in police stations varied according to the stations, the case, and other factors. One such factor is corruption. Chapter Five has highlighted how corruption can result in extended detention periods. For example, corruption can result in police officers delaying the start of interrogations. This study cannot prove that corruption is in

fact the only reason for the delay in the start of interrogations, however it is most certainly one reason.

During detention, the detainees are the responsibility of the police. Therefore, the police are meant to provide appropriate food, water and medication when needed. Police officers and prison guards acknowledged that this is not always simple, and it is not always their [officers] choice. *“They sleep here in the station and everything is fine except when it comes to the food. We don't have a budget to feed them, so if someone has money on them we use the money to buy them food, if not then they go for four days without food”* (Police Officer 1). This statement highlights that sometimes, violations are not intentional, and are a result of the lack of resources and care from the Lebanese government. Other violations experienced throughout the process of arrest and detention have been examined throughout Chapter Five. These violations included the failure to allow detainees to phone family and lawyers, the failure to provide medical assistance to detainees and the use of torture on detainees. The narratives of prisoners varied according to the stations they were detained in (see Chapter Five). Some narratives (two out of twenty-six participants to be precise) did not mention any use of torture or any violations, while others ranged in severity. Because of the existence of torture and other human rights violations, this study argues that the implementation of Penal Law 47 (like many laws in Lebanon) is at the discretion of the police officers, prison guards and even judges and lawyers. It can therefore be argued that the implementation (or lack of) may be due to the level of punitive attitudes carried by individual judges, lawyers, and police officers.

6.2.2.e Lack of Political Will

Chapter Five, has already mentioned some of the reasons provided to explain the use of torture. One such reason is the lack of political will (See Chapter Five). In Lebanon there is a general lack of political will surrounding criminal justice issues. This is due to the fact that the country has been in turmoil for a significant period and does not have a functioning government. All participants (criminal justice agents as well as prisoners) highlighted the lack of government and political will at various points within their narratives.

Lebanon has been without a president for the past eighteen months due to political parties' inability to agree on candidates. The lack of a president means the lack of a functioning parliament. This means that neither laws, nor improvements can be implemented within the country. Therefore, even if criminal justice agents were demanding change within the system,

no one can sign off on this change. Numerous lawyers and judges, when discussing torture as well as other criminal justice issues, kept reminding me of the vacant government, highlighting its importance.

Examining some narratives it also became evident that even if we did have a functioning government, change might not happen due to lack of political will. A prisoner, highlighted this lack of will, claiming that the government does not have a problem with the way the criminal justice system functions. *“They [the government] put investigation units? No, they don't, they put mafias not investigation units, we don't have a government that knows how to work like normal human beings with people, it is all mafias. I consider them all to be mafias...”* (Prisoner 1). The reason why this prisoner (along with several other prisoner participants) considered the investigation units to be mafias was due to the torture used and *“because they have no mercy”* (Prisoner 1).

Lebanon is not the only country to suffer from the lack of political will to target the use of torture. In fact, within Bangladesh *“there has been a lack of political will under successive governments to hold accountable those responsible for human rights violations”* (Human Rights Watch, 2009:2). Moreover, in addition to the lack of government and political will, human rights are not a high priority on the Lebanese political agenda. This may be due to the turbulent situation within the country and the lack of a functioning government both of which take priority in the political sphere. Participants were all aware of the lack of priority given to human rights, as numerous participants highlighted the security sector was more important. For example, Prison Guard 4 stated: *“Human rights? What human rights? Lebanon is at war. This is more important; you know the trouble we have in the country. This is what is important”*.

6.2.2.f Monitoring Torture

A committee in the ISF (Internal Security Forces) is responsible for the monitoring and investigating claims of torture. Several police officers made reference to this committee claiming: *“There is a committee in ISF that have officers that go around detention centres to see if detainees have been mistreated. Plus the detainees can report the abuse if there is abuse and the committee has not visited...”* (Police Officer 1). Despite its existence there is an issue with the committee as it is important to remember that the police and the prison guards within Lebanon are all a part of the ISF (See Chapter Three). Therefore, the committee responsible for the monitoring and accountability of torture are the colleagues of the torturers themselves.

This may therefore account for why there is no accountability when it comes to the use of torture despite several allegations. Within Lebanon, because of the police culture and corruption most allegations of officer misconduct comes from external sources i.e. citizens.

The cover up and/or failure to hold police accountable for their misconduct is not restricted to Lebanon. One other country that is facing this issue is the United States where numerous suspects are being shot and killed by police officers that are rarely held accountable.

6.2.3. Offenders in Court

Once the period of detention within police stations ends a suspect is either released or sent to prison. Within Lebanon, suspects are imprisoned awaiting trial, as bail is rarely an option. Numerous participants within this study (twenty out of twenty-six participants) had not been sentenced and had been imprisoned between two and seven months. The imprisonment of suspects before they are found guilty is a form of arbitrary detention (See Chapters Three and Five). *“I have only seen the Investigative Judge and I have been in prison for five months, this is because I have no one helping me and no one working for me and if no one works for me then I will never leave prison”* (Prisoner 16).

Even after being imprisoned for several months, many participants were unaware of when their first hearing would take place.

“I don't know when I am going to court, no one has said anything to me. I really don't know”
(Prisoner 1).

“I have been in prison for a year and I have no idea when I am supposed to go to court”
(Prisoner 8).

Delays are not only common within Lebanon; numerous other developing countries suffer from it. For example, “in the Philippines, it can also take years before the prisoners are brought to court” (Ringgaard, 2014). It can be argued that it is because of the high levels of corruption and the failure of monitoring within developing countries such as Lebanon and the Philippines that such violations as arbitrary detention happens.

6.2.3.a Structure of the Court

Lebanon's judicial system is comprised of the Civil ('Adli) system, the Administrative System, Religious Courts, Military Courts as well as other smaller courts (See Chapter Three). Most participants within this study were tried by the Civil Court System, however one participant claimed a military court tried him. Despite whether a suspect is sent to Military Court of the Civil Courts, the court processes are extremely similar.

Examining the narratives surrounding the court process it was evident that the prisoners' narratives surrounded their experiences of human rights violations rather than the process itself. Some judges and lawyers also highlighted violations however; their narratives were more descriptive of the process. One of the reasons why prisoners' narratives surrounded human rights violations may be due to the fact that they wanted to be heard. As, "either by the inclinations of institutional authority or by our lack of adequate space or desire to present them, the stories and voices of inmates in prison are systematically silenced" (Schlosser, 2008:22). They therefore tended to take advantage of the meeting to voice the discrimination and violations they experienced. The human rights violations that occurred within the court process have been examined in Chapters Two and Five, therefore this section will attempt to describe the court process rather than violations.

Within Lebanon, the court process is not a simple process; and involves making suspects "go down to several hearings with different judges..." (Prisoner 2). Prisoners did not understand that the reason the judges changed was due to the different stages, it was the lawyers within the study that explained that the change occurred as part of the trajectory through the system. "The procedure, the origins of the court can take several phases in each stage there is a different judge. There is no judge that previously states that this person has done it and in the end sentences him. The accusation begins with an accusation judge, the judge accusing cannot sentence the suspect" (Lawyer 1).

The alteration of judges does occur within the United Kingdom, for example, when a suspected is moved from the Magistrate Court to the Crown Court. However, the alteration of judges does not occur once the case file is within the Crown Court. This is because it is important to have the same judge presiding over a case in order to ensure the judge is familiar with the case and ensure a consistent approach to the case (The Crown Prosecution Service, 2015). In

Lebanon, however, it is still possible to have different judges throughout the Court of Cassation.

When enquired into the reasons for this change participant judges and lawyers were adamant that this process of changing courts and judges would prevent mistrials, as it is not up to one judge to sentence but it is a process where numerous judges play a role in reaching the final verdict. Therefore, in order to reach a final verdict, the various judges provide their suggested verdict to the judge within the Court of Cassation who then reviews these recommendations and administers the final verdict. Although judges and lawyers within Lebanon believe this is a method to prevent mistrials and other human rights violations, this is not the case as the Lebanese court system is still rife with violations (See Chapter Five). In addition to the various courts, another method implemented in Lebanon in an attempt to prevent mistrials is the rotation of judges.

“You know the judges are like the army, they rotate, they change every two years. The judge that is in a certain court is moved to another court. If it happens that a judge was in the prosecution court, we call him the official name; the Public Defender. If he is the one prosecuting we call him the General Prosecutor. If the General Prosecutor has accused a person and stopped him and later after two years he is transferred to the court that provides the sentence, then he is excused from sentencing the person because it is forbidden. There should be a separation, because the person that accuses a perpetrator is different than the person who will sentence them. This is to ensure that no one prematurely decides that this person is guilty and sentences him...” (Lawyer 1).

If properly implemented then this may in fact reduce mistrials and possibly even corruption as the rotation means that a judge is not placed in one station for too long. However, as one judge has highlighted, this also creates problems, as some positions are unfavourable. According to one judge being an Investigative Judge is not something many judges want to do due to the difficulties associated with the position and because it is considered to be one of the lower level of judges. *“I don't like being an Investigation Judge, it's insulting, I have no office I have to run after police officers. They tell me I have an office, it is in a building and I have no access to a desk because of all the things in this small room that they call an office. But it is not my choice, if I can choose I would not be an Investigation Judge, it's a disgrace” (Judge 3).*

As this judge has highlighted, judges have no say and are randomly placed within the various courts and its positions. Although this happens within other countries across the world, it becomes problematic when some positions are un-favoured due to poor working conditions. In such situations this random placing of judges rather than allowing them to apply for positions, risks creating a feeling of antagonism towards the job. This feeling of antagonism may result in judges not carrying out their duties to the upmost level. Numerous studies have been conducted surrounding the correlation between job satisfaction and job performance. One such research is Judge et al.'s who provided several models attempting to explain the relationship between job satisfaction and performance. Some of these models included:

- (1) relating job satisfaction to resulting job performance,
- (2) relating job performance to resulting satisfaction
- (3) claiming performance results in satisfaction and in return is a result of satisfaction.

All three models can be used to argue that if a person is not satisfied then they are less likely to perform and vice versa. These models can therefore be put forward to explain some of the problems with judges, which include the delaying of court hearings, and corruption.

6.2.3.b Court Process

Examining the narratives of participants, it is evident that the court process is seen to begin at the point of arrest.

“The hearings start with the arrest in the police station where the initial investigations occur in the presence of a General Prosecutor. He is a judge but we call him a General Prosecutor... He [the General Prosecutor] speaks on behalf of the public’s rights... When a specific crime occurs he [the General Prosecutor] prosecutes, this means he accuses people, he accuses this person who might have committed the crime and he refers them to the appropriate court which is higher than him...” (Lawyer 1).

This situation is similar within the United Kingdom, as it is the Crown Prosecution Service (CPS) that decides whether a case should be prosecuted. The CPS further “determines the appropriate charges in more serious or complex cases-advising the police during the early stages of investigations; prepares cases and presents them at court-using a range of in-house

advocates, self-employed advocates or agents in court; and provides information, assistance and support to victims and prosecution witnesses” (The Crown Prosecution Service, 2015).

Once the General Prosecutor agrees to start criminal proceedings suspects are sent to see the Investigation Judge.

“Within this court, the Investigative Judge investigates the file further, he gets more witnesses and he gives a conclusion after he hears everything... this is not a sentence... he says yes it is possible that according to the proof and evidence that the suspect might have committed the crime...” (Lawyer 1).

Many prisoner participants claimed that they were unable to defend themselves when meeting with the Investigative Judge. Prisoners claimed that *“... the Investigative Judge, he only interrogated me and said you have done this crime, and I replied saying no I swear sir I haven't done it...”* (Prisoner 16). It is important to remember that numerous (twenty out of twenty-six) participants were not sentenced when interviewed and therefore, some had not progressed any further than the Investigation Judge. It is for this reason that the majority of this section is composed of the narratives of judge and lawyers. Police narratives were excluded from this section, as the police and prison guards were unaware of the court proceedings.

According to judges and lawyers, after seeing the Investigation Judges, suspects are then transferred to a higher court.

“This has three judges and not one judge, three judges sit in...again it is not an open court and their files are secret. They [the three judges] study the file, this means that it is possible that they don't carry out hearings and therefore do not see the accused. They might just rely on the investigations they have received and after studying the file, they refer it to the specified court or they request additional investigations... After this court they present an accusation decision. At this point they accuse him but not sentence again it is just an accusation that you, you might be the one who has committed this crime according to our evidence. It is after this point that he goes up to the criminal court” (Lawyer 3).

Examining the narratives of this part of the process it is evident that there are numerous issues that might affect the suspect's chance of a fair trial. For example, the judges within this stage

may only choose to rely on the evidence, which is not always physical evidence (proof) but also confessions. Numerous prisoner narratives highlighted the use of physical and mental torture by the police in order to obtain confessions (See Chapter Five). For example, one prisoner participant claimed, *“I was too scared, they threatened to hit me, even when I was moved to the investigation until, they threatened to hit and hang me, so I signed it, I signed the confession”* (Prisoner 2).

6.2.3.c Culture of Confessions

The problem with relying on confessions through the court proceedings is that it may lead to convicting innocent people, especially since (as this study shows) numerous confessions might be forced. Within the United States for example, *“recent DNA exonerations have shed light on the problem that people sometimes confess to crimes they did not commit”* (Kassin et al., 2009:3). There are several reasons why innocent people confess. Some of these reasons include: *“suspect characteristics (e.g. adolescence; intellectual disability; mental illness; and certain personality traits), interrogation tactics (e.g., excessive interrogation time; presentations of false evidence; and minimization)”* and of course the use and/or the fear of torture (Kassin et al., 2009:3).

Several lawyers and judges highlighted the over-reliance on confessions within the court process within Lebanon and attempted to justify it. For example, one judge claimed, *“In Lebanon, the evidence is not very good, so we rely on confessions...”* (Judge 3). Although judges and lawyers admitted to the reliance on confessions, they claimed that if the confessions were obtained through torture then the case is nulled. This conflict between the use of confessions and the claim of annulment (if confessions are forced) results in judiciary both respecting and being sceptical of confessions. *“Judicial respect for confessions emanates from the power of confession evidence and the critical role that confessions play in solving crimes”*, while scepticism is due to the means used to obtain this confession (Kassin et. al, 2009:9).

Examining the means of achieving a confession is important especially in a country like Lebanon where torture is rife. There is therefore a dichotomy between accepting and being sceptical of confessions, this does not only occur in Lebanon. American judiciary, for example, also have this complicated relationship with confessions. Moreover, similar to Lebanon, Russian courts along with Jordanian courts *“commonly accept forced confessions at face value, and use them as a basis for conviction”* (Human Rights Watch, n.d.).

Lawyers play a vital role in the process of ensuring confessions are not forced as they are the ones who investigate any violations. Although lawyers are forbidden from attending interrogations within Lebanon, this does not mean their role in preventing violations is diminished. Numerous lawyers within this study explained their role.

“I need to examine the way in which he was stopped, firstly it interests me during his arrest, if the arrest was legal according to the criminal law guidelines. Because there are certain grounds that say that rights need to be upheld in order to legally arrest someone... if he was tortured, he has to undergo a medical examination... as a lawyer, I defend this person, the first point is for me to see if the initial arrest happened according to the law...” (Lawyer 1).

Examining the means of arrest tends to take place before the suspect arrives at the sentencing court i.e. the Court of Cassation.

“Before the Court of Cassation, all of the process, before this hearing, the person will be an accused and not sentenced. This means it is possible that he is found innocent. It remains to be possible he is innocent until the guilt is proven by the final sentence” (Judge 7)

When exploring the process of arrest, Lawyers claimed:

“The arrest should be according to the fundamentals of the court process or else the arrest will be redundant, the report of the arrest will be made redundant if torture was used...” (Lawyer 2)

“...here the process of proving that the actions were not legal is a meticulous thing, I need to follow up on witnesses, if there are witnesses to the hitting, if there is a doctor’s report of the hitting if it was a case of torture...” (Lawyer 3)

Examining the above statement, two factors are brought to the forefront that may result in the concealment of torture, the lack of witnesses and doctors.

(1) The lack of witnesses: Chapter Five has examined the role of police culture, and provided an explanation as to why some officers who are against the use of torture might remain silent and even participate in such acts. The police culture further makes it less likely for police officers to act as witnesses when torture occurs. This is because of the fear of ‘not fitting in’ and being

ostracized. In relation to citizens, they may choose not to act as witnesses due to fear. Moreover, most of the torture occurs behind closed doors, i.e. within police stations.

(2) Forbidding detainees from receiving a doctor: Numerous prisoner participants claimed that they were unable to see a doctor while detained (See Chapter Five). This occurred despite their requests for a doctor. Although such accounts were told in relation to gathering evidence to prove or disprove a sex offence, this situation (i.e. the lack of doctors) is also true for victims of torture. When prisoners who claimed to have suffered from torture were asked whether they had seen a doctor, their responses were “no, no never. They [the police] wouldn't let us” (Prisoner 5).

In addition to the above-mentioned factors, a further problem arises when participants do not have lawyers. As was previously mentioned (6.2.2b) lawyers are important within the interrogation unit due to the role they play in preventing torture and ensuring lawful arrest and detention procedures are upheld.

6.2.3.d Sentencing

Comparing prisoners' narratives to those of lawyers and judges, it was easy to recognise that they were in fact conflicting. When prisoners spoke about their experiences within the courts, they spoke about violations such as the delay in hearings, the lack of legal representation, the inability to defend themselves and so forth. Judges and lawyers on the other hand presented narratives surrounding the process of the court. They (judges and lawyers) explained the legal guidelines and the thought processes of sentencing judges; it was as if a textbook was provided. For example, Lawyer 1 elaborated:

“The law gives the right for the difference in sentencing because in the criminal law, it does not tell a judge this specific crime deserves three years imprisonment... It says, this crime can range between three and ten years of imprisonment, depending on the person, the difficulty of the crime, how aware the person is, his age, what reasons pushed him towards the crime...then there is something here we take into consideration, the judge's personality. We look at how affected he was [the judge] by the crime that happened and how much would he like to toughen the punishment or if he considers it to not be too severe. But of course he [the judge] cannot go over the minimum and maximum margin that the law puts...”

Although the law within the U.K also gives judges an offence sentencing range, the sentencing guidelines are more specific than those found in Lebanon. For example, according to the sentencing council rape cases can range from the maximum of life imprisonment to four to nineteen years' custody. Numerous factors play a role in determining the judge's sentence. These factors include: the categories of harm, culpability, as well as aggravating and mitigating factors (See Appendix Nine for a full list of the factors). When compared to that of Lebanon, the full list of factors influencing sentencing in the U.K. is far more extensive. According to Lebanese guidelines the focus is on the age of the victim, the use of violence and/or threats. This provides space for variations amongst sentences. One judge highlighted the variation in sentencing resulting from the lack of stringent sentencing guidelines within Lebanon: *"For the same crime, if it is present at one judge he convicts the person for three years and if it is present at another judge, he convicts him for five years"* (Judge 6).

This variation in sentencing may be due to disparity and/or discrimination. Disparity "is a difference in treatment or outcome that does not necessarily result from intentional bias or prejudice" (Spohn, 2009:129). While discrimination, "is differential treatment of individuals based on irrelevant criteria, such as race, gender, or social class" (Spohn, 2009:129). It is when discrimination results in variation in sentencing that a human rights violation occurs as it affects the right to a fair trial.

Two other factors that result in a variation in sentencing (and hence human rights violations) are corruption and pressure. *"It can go anywhere from corruption to being subject to pressure, political pressure or social pressure or even friendship pressure, or peer pressure of the judges... such pressure and corruption can be used for doing things that could be bad or good..."* (Judge 1).

When dealing with sex offences, prisoners, judges and lawyers all confirmed the courts were "closed courts". This meant that *"no one goes into the court room except the lawyers and those that are directly involved in the case"* such people include witnesses (Judge 2). All judge participants claimed that court sessions began with them asking the accused if he/she wanted a lawyer.

"The report is in front of me, I asked him if he wants to employ a lawyer or not. Most of the time, I mean some of them don't employ a lawyer and others do. After we ask about the lawyer,

then we start asking him questions like what has happened with him and so on. We would have seen the police's investigation report before and seen if they have written down if he has confessed, or if he hasn't confessed. We also look to see if there is or isn't DNA proof... We also look at evidence like the sayings of the victim and the legal [forensic] doctor's report..." (Judge 8).

"There is always evidence and that is why it is important to look at the situation and the environment and the witnesses if there are witnesses" (Judge 5).

This narrative derived from the interviews of judges and lawyers conflicted with that provided by the prisoners. Numerous prisoners claimed that they did not have the opportunity to acquire legal representation, nor use witnesses and doctors. Half of prisoner participants (thirteen out of twenty-six) did not have any form of legal representation (See Chapter Five). In relation to a lack of defending themselves, most prisoners claimed that they were not asked to speak and therefore could not verbally defend themselves or use doctors or witnesses as part of their defence. For example, one prisoner participant claimed, *"The only thing they ask you in court is your name and mothers name"* (Prisoner 2) (See Chapter Five).

6.2.4 Offenders in Prison

As was previously mentioned, the length of detention within police stations can vary. Prisoner participants' detention periods varied from two days to seven days. Detention may be justified according to primary or secondary grounds. Primary grounds for detention include:

- (1) "The nature of the offence and potential penalty
- (2) The strength of the evidence against the accused
- (3) Community ties of the accused
- (4) The character of the accused
- (5) The accused's record of compliance with court orders on previous occasions
- (6) The accused's behaviour prior to apprehension and
- (7) Evidence of flight" (Canadian Department of Justice, 2015).

As for Secondary grounds justifications include:

- (1) Criminal records,
- (2) Whether the accused is already on bail or probation;
- (3) The type of offence-it has been suggested that a person charged with specific offences is more likely to commit if released (e.g. breaking and entering, drugs) because they are crimes that are assumed to be closely related to the accused's source of livelihood; and
- (4) Whether the accused is addicted to drugs or alcohol" (Canadian Department of Justice, 2015).

These reasons for detention extend to pre-trial detention (i.e. imprisonment while awaiting for trial) "Pre-trial detention is only legitimate where there is reasonable suspicion of the person having committed the offence and where detention is necessary and proportionate to prevent them from absconding, committing another offence, or interfering with the course of justice during pending procedures" (Penal Reform International, 2013). As was previously mentioned a total of twenty from twenty-six prison participants were not sentenced and therefore were subjected to pre-trial detention. Participants' length of pre-trial detention ranged from two months to eight months (See Chapters Four and Five). Within Lebanon, the detention of suspects occurs without any consideration to the grounds for his/her detention, it is an automatic process which usually results in arbitrary detention.

6.2.4.a Prison Entry Process

Despite the participants' sentence status (i.e. whether sentenced or not), and/or the type of crime committed prison guards claimed the entry process to prisons was systematic.

"Well, in general there are two types of entries to prison. The first group are those who have entered for the first time, these people are put in a preparation stage. And the second group are those who have been in and out of prison several times. They do not need any preparation because they know the prison and its rules and procedures..." (Prison Guard 1).

"Prisoners are usually searched, we ask them a few questions then write reports and put them in a room. It is the same process for all prisoners no matter what the crime is... we don't judge them, it is not our job to judge them" (Prison Guard 2).

This process is similar to the process of entry within the United Kingdom, where all prisoners are subjected to an induction process. “The purpose of the induction process is to inform prisoners about prison life, the regime and their responsibilities and privileges and to begin to prepare them for their return to the community” (HM Prison Service, 2015). According to prisoner narratives however, the induction process within Lebanon is not as detailed nor specific as that of the U.K. Prisoners’ narratives surrounding the prison entry process revolved around their search, shaving of heads, the assigning of rooms and in some circumstances the violence they endured at the hands of prison guards and prisoners (See Chapter Five). None of the participants claimed they were informed about prison life, its regimes and their responsibilities and privileges. However, prisoner experiences of prison entry process varied according to the various prisons, and blocks within the prison. For example, some prisoners claimed the entry process was “*normal*” while others experienced a violent process (See Chapter Five). The “*normal*” entry process also varied across the prisons. For example, a prisoner claimed “*In Roumieh prison, I had to hand everything over to them...*” (Prisoner 13) while another prisoner stated “*In Ibeh prison the guards, take us in and search us, shave our heads down to zero and then they [the guards] move on to the next one and do the same with the same blade...*” (Prisoner 7)

Another variation in the prison entry process was in relation to cell allocations. The narratives surrounding the allocation of rooms differed among the participants. In some cases prison guards allocated rooms while in other situations head prisoners were in charge of finding space. “*In Roumieh I was placed in the main holding cell which holds between seventy and eighty people...*” (Prisoner 11). In contrast to Prisoner 11’s statement Prisoner 2 claimed: “*In Roumieh Prison, rooms were decided depending on which one had the least amount of people in it...*” (Prisoner 2). This variation is due to the prisoners being situated in different blocks, each of which has their own officer (a Block Warden) in charge of its management. Variations can therefore occur within prisons as well as amongst the various prisons. For example, unlike Roumieh prison, prisoners 20 and 4 claimed they were able to choose their own cells. Moreover, Prisoner 14 claimed: “*I chose my cell because I am related to the head prisoner...*” The prisoners’ accounts, which highlighted the variation in the prison entry process, means that the process is not as systematic as police officer and prison guard participants claimed. The lack of specific guidelines and a systematic process might therefore play a role in providing an arena for numerous human rights violations.

This situation is very different from countries such as the U.K. and the U.S.A. where the allocation of cells is purely the duties of prison guards. Another difference between Lebanese prisons and those of the U.K. is the classification of prisons and prisoners. Within the U.K. prisons are classified as “‘closed’ or ‘open’ depending on the prisoners they are designed to hold” (Silvestri, 2013:18). Moreover, U.K. prisoners are categorized according to their dangerousness. This segregation does not occur within Lebanon. Prisoners highlighted the lack of segregation throughout their narratives.

“Here we are all put together, the old and the young, the drug user with the killers.... I came in for one crime now I know many I can steal, I can kill, I know where to get drugs from, I can do anything because there are people here who know these things...” (Prisoner 2)

“AJEM should do a place for rapists, separate from the prison, because they are now learning to take drugs...” (Prisoner 18).

The risk of learning from each other is a consequence of the lack of segregation. Numerous researchers have argued, that it is in fact true that prisoners learn from each other. For example, Pritikin (2009:1055) argues: “Studies have shown that placing low-risk offenders together with high-risk offenders actually increases the risk of failure for the former, even if they are placed together in rehabilitation programs-so the bad eggs seem to have more of an influence on the good eggs than vice versa”. It is because of such arguments that an importance should be placed on segregating crimes within prisons.

6.2.4.b Lack of rehabilitation

In addition to the lack of segregation within Lebanon, there is also a problem of lack of formal rehabilitation within Lebanese prisons. Numerous police officers, prison guards and prisoners highlighted this lack of rehabilitation within prisons and how they believed it affects recidivism. *“No one is treating prisoners so they wont repeat their crimes... they are all repeat offenders, they [prisoners] go in and out of prison with no treatment....” (Prison Guard 7).*

The importance of rehabilitation has been highlighted by numerous scholars. For example, according to MacCormick (1950:38) although the public believe that prisons deter potential offenders through fear of punishment, “it is an important step in the total process of extracting, converting and refining the potentially valuable material that passes on a never

empty belt-line through our clinics and our courts”. The lack of rehabilitation and treatment in prisons within Lebanon underlines that prisons extract but fail to ‘convert and refine’ those who enter. This is due to the corruption and human rights violations, present within Lebanese prisons. The Lack of rehabilitation and treatment was first noted in the narratives of the police officers when they claimed:

“If prisoners have rights it would be different, it would be better, there would be better treatment and management, it will also stop recidivism and ensure they don't want revenge...”

(Police Officer 8).

“...we need the prison, it is essential but the prison needs to be a place for rehabilitation...”

(Police Officer 4).

This task of turning the prison into a place for rehabilitation is difficult within Lebanon as numerous criminal justice agents as well as ‘lay’ people do not know what rehabilitation and treatment are. Interviewing prisoners it quickly became evident that some police, prison guards and prisoner participants did not understand what was meant by rehabilitation and treatment. The lack of awareness surrounding rehabilitation and treatment by prison guards may be due to several reasons. For example, it may be due to the lack in training, a lack of interest in the concept and the lack of resources. Several police officers within this study highlighted their disinterest in the concept when they refused to acknowledge their role in rehabilitation and treatment of offenders. *“Us do rehabilitation and treatment for them? Why would we? ...It is not our job to do it”* (Police Officer 12).

According to prisoner participants the lack of understanding of what rehabilitation and treatment entails, and the lack of support for rehabilitation and treatment by prison guards act as barriers to the implementation of such a concept. One prisoner claimed: *“The prison guards would laugh at him, they would tell him you are going into treatment but instead they will put him, throw him in prison...”* (Prisoner 1). In the rare cases that participants did touch upon rehabilitation and treatment they did so in relation to services provided by religious people and/or Non Governmental Organisations (NGOs). For example, Prison Guard 2 stated *“Numerous religious people are giving rehabilitation and treatment... rehabilitation is given by NGOs... they come into the prison every so often and offer their services...there is no formal rehabilitation or treatment...”*. It is important to note however that the rehabilitation offered

by such NGOs are basic psychological and psychiatric treatment. The only fully developed treatment program comes in the form of Drug Substitution Therapy offered to drug users.

The lack of formal rehabilitation and treatment services means that NGOs and religious people's experiences and adequacy can be questioned. It is likely that these religious figures and NGOs have not received any formal training surrounding various rehabilitation and treatment techniques and therefore are not qualified in implementing them. One form of rehabilitation that is successfully implemented within Lebanon is Drug Substitution Treatment Therapy provided by NGOs such as AJEM. However, as the participants of the study have highlighted, there is no form of rehabilitation and treatment provided for sex offenders

Judges and lawyer participants believed that in order for rehabilitation and treatment to be used there is a need for legislation. In their opinion legislation would ensure rehabilitation and treatment is enforced, and also ensure that the resources needed are present. *"We need an article in law for forced rehabilitation and treatment... if a judge convicts people to rehabilitation then it will happen but we need judges to convict and a law to say to do so and so also..."* (Lawyer 4).

Within the United Kingdom legislation surrounding rehabilitation has been implemented since 1974. The Rehabilitation of Offenders Act for example, states the conditions under which rehabilitation can be provided to offenders. Although judges and lawyers advocated such legislation within Lebanon, barriers to such legislation included the lack of means for rehabilitation, the unpreparedness of society, and lack of belief in the success of the programs. For example, one judge questioned *"Who would be in charge of this [rehabilitation]?...we have no one"* (Judge 1). Moreover, one lawyer participant claimed *"there is no rehabilitation or treatment in prison because we don't have the resources?"* (Lawyer 6). Such comments highlighted the lack of qualified people to administer rehabilitation and treatment within Lebanon. In addition to such barriers, several participants doubted the effectiveness of rehabilitation and treatment of sex offenders. For example, Lawyer 5 claimed: *"Those who have sexual problems cannot be cured"* (Lawyer 5). The lack of belief in the success and effectiveness of rehabilitation and treatment might act as barrier to forming and implementing legislation that enforces rehabilitation and treatment programs within prison.

6.2.4.c Rehabilitation Versus Punishment

The correlation of rehabilitation and repeat offending is widely debated by scholars and criminal justice agents. Within the 1970s the failure of treatment was emphasised and claims were made that nothing works therefore “resorting to greater use of punishment” (McGuire, 2002:10). Although this belief is still common among some experts and criminal justice agents, there has recently been a large amount of evidence proving that “interventions can reduce recidivism” (McGuire, 2002:10). There has therefore been a move (although slow) away from punitiveness and back to focusing on rehabilitation.

Within Lebanon the opinions of participants on the effects of rehabilitation and treatment was divided. Some participants believed that rehabilitation and treatment would be successful at reducing recidivism, while others either did not understand the concept or rejected its success. It is important to note, most participants (i.e. numerous police officers, prison guards, prisoners and even some lawyers and judges) did not understand rehabilitation and treatment and therefore the concepts had to be explained to them. Even after explanation, some participants claimed: “*People won’t understand what rehabilitation and treatment is here...*” (Prisoner 14). This lack of understanding of rehabilitation may be due to two factors; the first is the lack of exposure to such a concept and second the lack of training.

Examining police officer and prison guards’ narratives, those supporting the implementation of rehabilitation believed “*we need rehabilitation and treatment, they are important to reintegrate people into society*” (Police Officer 3). Some judges and lawyers further verbalised the need for rehabilitation.

“We need an article in law for forced rehabilitation and treatment... if judges convicts people to rehabilitation then it will happen but we need judges to convict and a law to say to do so also”
(Lawyer 4).

“I am for rehabilitation and treatment because crime is a sickness...” (Lawyer 10).

Most of the prisoners agreed that rehabilitation is important, however they did not believe that they themselves needed to partake in any programs were they available. “*Treatment is good for those who have problems and need it, I didn't do this thing they say I did [the crime], I don't need it*” (Prisoner 20). It is because of such statements, when interviewing prisoners they were

interviewed as if we were talking about someone else (See Chapter Four). Therefore, discussions surrounding rehabilitation were general and not specific to the person, instead they revolved around opinions surrounding rehabilitation in general and rehabilitation of sex offenders (and not the individual participants).

Advocates of rehabilitation and treatment within this study highlighted the need of specialised staff and funds.

“Prisons need to have multi-capable people to help the prisoners” (Prison Guard 2).

“I am definitely for rehabilitation, but need time for rehabilitation, we need a building for rehabilitation which is specifically for that, so we can separate them [those in rehabilitation] from other criminals. We need different non-governmental organisations working together to help rehabilitate prisoners” (Prison Guard 2).

In regards to participants who were against the use of rehabilitation and treatment, this was due to their refusal to acknowledge the potential rehabilitation has at reducing recidivism. Many participants (judges, lawyers, police officers, prison guards and prisoners) held the similar belief that *“those who have this sexual problem and sexually offend cannot be cured from it...”* (Lawyer 5). Such beliefs conflict with studies that has found a decrease in recidivism rates due to the risk-need responsivity model²⁴ for offender assessment and rehabilitation (Smith, Schweitzer and Ziv, 2014).

6.2.4.d Prison Life

Both this chapter and Chapter Five have attempted to highlight the lack of rehabilitation, the lack of control by prison guards within prisons and the general sense of the lack of importance placed on criminal justice issues. Because of all these, it is unsurprising that narratives surrounding prison life were riddled with human rights violations. Human rights violations within prison ranged from the use of torture, the lack of food water and medicine and

²⁴ Risk-Need-Responsivity (RNR): “(1) Risk principle: match the level of service to the offender’s risk to re-offend; (2) Need principle: assess criminogenic needs and target them in treatment; and (3) Responsivity principle: maximize the offender’s ability to learn from a rehabilitative intervention by providing cognitive behavioral treatment and tailoring the intervention to the learning style, motivation, abilities and strengths of the offender” (Bonta, and Andrews, 2007:3)

overcrowding (See Chapter Five). When narratives surrounding prison life were examined, several prisoner participants described it as:

“It is a mafia here in prison, there is a lot of hitting and the prison guards don’t get involved, they don’t help...” (Prisoner 13).

“...those that would open their mouths he [the head prisoner] would come and hit them...”
(Prisoner 3).

The existence of such an environment may be due to numerous factors such as the previously mentioned overcrowding and the lack of prison guard control. However, another factor is the attitudes and beliefs of those in charge. As was previously mentioned (See Chapter Five) some participants did not believe that offenders have human rights.

“Why should criminals have rights when victims don't?... they don't have any rights...” (Police Officer 3).

“... if they rape then they don't have humanity, they are animals and not humans and without humanity, they have no rights...” (Police Officer 8).

“...they [sex offenders] don't deserve human rights, they should be put in a place without people because they are not human” (Police Officer 15).

It may be argued that due to such mentalities, human rights violations are disregarded, as people believe offenders do not deserve any better. These attitudes are problematic since it has been proven that such violations (i.e. torture, overcrowding, lack of basic needs) can all contribute to an increase in crime. According to Pritikin (2009:1056) “brutalization of an inmate by a guard may destroy his sense of personhood or make him resent the state and its systems of authority”. The ‘brutalization of inmates’ by a prison guard was found in several prisoner narratives. For example, one prisoner claimed *“when I was in isolation, while I was sleeping two police officers came in and hit and kicked me...”* (Prisoner 8). In addition to guard brutality, violence committed against inmates by other inmates may similarly “destroy the victim’s sense of self-worth and make him resent the system that failed to protect him” (Pritikin, 2009:1057). Numerous prisoner participants experienced violence and brutality by other prisoners (See

Chapter Five) and were extremely angered by the fact that the prison administration did nothing to help. *“I tried going and complaining to the head of the prison that I was being hit, they were killing me with all the beatings, but one person would transfer me to another and they [guards] did nothing”* (Prisoner 1).

The failure of prison guards in protecting prisoners from violence may be due to three factors:

- (1) The belief that they deserve the suffering and it is part of their punishment
- (2) The fear of other prisoners who may be connected to powerful families, and
- (3) Corruption.

In relation to overcrowding, it is argued that human rights are more likely to be violated if the population exceeds the available resources. The availability of resources (sleeping, food, etc.) was elaborated by prisoners. The lack of sleeping space was the most re-occurrent consequence of over-crowding (See Chapter Five). Such overcrowding results in problems as “various studies have shown a correlation between population density in prisons and infraction and assault rates” (Pritikin, 2009:1058). Moreover, “studies also show that overcrowded and poorly regulated prisons tend to have higher rates of rape and sexual violence” (Pritikin, 2009:1058). No research has been undertaken to examine sexual violence and rape within Lebanese prisons, however one prisoner did confirm its occurrence. *“In one room, one of the men told me to go get a guy for him. He wanted this guy for sex, I didn't get him a guy nor did I let him touch me, instead I went and told the other prisoners and they came and beat him up”* (Prisoner 2). In addition to sexual violence, overcrowding results in fewer resources that in return results in increased frustration and conflict amongst the inmates (Pritikin, 2009).

Another factor of prison life that results in further criminality is the lack of training and education provided to prisoners. Although some participants claimed they were taking English and Arabic courses, these opportunities were not present in all prisons. The education and job training in prisons is important as it “might increase an inmate’s employability upon release and thus increase his odds of going straight” (Pritikin, 2009:1058).

6.2.5 Offenders Upon Release

Due to the fact that most prisoner participants were not recidivists and therefore were not released then re-incarcerated, it is difficult to conclude what happens once a sex offender is

released from prison. There is therefore, a need for research in this arena. Out of twenty-six prisoner participants only two were recidivist, although their previous incarceration was due to theft and not sex offences. When these participants were asked to provide information surrounding the process of preparation for release and their experiences back in the community they both claimed that there was a lack of support.

"I wasn't prepped for release. There is no such thing here, they give me my stuff and then God be with you..." (Prisoner 10).

"...I wasn't prepared before release, I only saw someone from the NGO AJEM" (Prisoner 18).

Lebanon does not only lack in preparing prisoners for release but it also lacks in providing support to ex-prisoners living in the community. Chapter Five has already discussed this while discussing human rights.

6.2.5.a Monitoring

In addition to successful re-integration, monitoring of sex offenders is extremely important in order to reduce the risk of re-offending. All participants highlighted the lack of measures implemented to support, follow up and monitor ex-prisoners within the community. For example, police and prison guards claimed:

"... there are no follow ups..." (Prison Guard 9).

"..no parole, we don't have enough people" (Police Officer 1).

Prisoners further highlighted the lack of measures in place to prevent recidivism. Judges and lawyers on the other hand highlighted the lack of as well as the importance of monitoring when they claimed

"No organisations to follow up prisoners, they only have psychologists if individuals want it..."
(Lawyer 10).

"... if he is released, he returns to the home where he can re-abuse his children. There is no one out there to help the families nor the offender..." (Judge 3).

Due to the lack of policies there is a general lack of awareness surrounding what happens to sex offenders upon release and whether they do in fact recidivate. This is very different than other countries, such as the United Kingdom the United States, Australia and Canada, where numerous policies surrounding the management and surveillance of sex offenders within the community have been implemented. These policies include community notification laws, and sex offender orders.

When measurements such as sex offender orders and registration were explained, most of the participants agreed that such measurements are in fact needed. However, participants questioned whether they would be successfully implemented due to the corruption within the country. Moreover, criminal justice agents touched upon the fact that there are not enough people in order to initiate and carry out these measures. Most police officers claimed that they are far too busy to participate *“if you can find someone to do it then I am for them, but not us we don't have time”* (Police Officer 17). In some cases prisoners were a bit wary about the effects of such orders and registrations on them and their families. *“I mean this register should not affect the person...”* (Prisoner 8). This was the only time it was hinted by participants that such measures may affect the persons rights.

International research surrounding the effectiveness of these policies in reducing recidivism is contradictory. According to Terry (2003) *“some scholars have argued that the implementation of such laws was not guided by any type of research that would suggest such laws were effective”* (Cited in Ackerman and Sacks, 2011). While others have argued their effectiveness in preventing recidivism. The support or opposition of the policies is usually dependent on a person's position within the criminal justice system. For example, community notification stakeholders within the criminal justice system (i.e. police) believe them to be effective in reducing recidivism. This is despite research such as Adkins, Huff and Stageberg (2000), which did not find a significant difference in re-offense rates. In addition to the argument of their effectiveness, measurements used to manage and monitor sex offenders in the community have been debated due to the effects they have on offender's human rights. Many scholars have argued that the mechanisms in place for monitoring and surveillance interfere with (for example) their right to privacy family, and security of person. According to Human Rights Watch (2007): *“Governments have an obligation to protect people and take appropriate steps to safeguard the lives of those within its jurisdiction to protect them from violence. One*

element of that duty is to take measures to deter and prevent crime. They must do so, however, within a human rights framework, which places restrictions on those measures that infringe on the human rights guaranteed to all”.

Examining participants’ opinions and attitudes towards monitoring it became evident that all participants believed that monitoring was not the job of criminal justice agents but instead, was the job of NGOs. For example, one prisoner recommended “... a board outside, let it be outside the management of the prison, each prisoner who gets released let there be an association outside to ensure he functions in a safe manner, a good manner...” (Prisoner 5). This belief was further re-enforced by police officers and prison guards who claimed monitoring and surveillance should be the job of NGOs.

Conclusion

If we return to Chapter Three and the definition of popular punitiveness, one of its main assumptions is that criminals and prisoners are favoured above the victims and the law-abiding public. This aspect is not applicable to Lebanon, as in general both victims and criminals are miss-treated and under-represented. This is due to the corruption which leads to cover ups and the general lack of justice (See Chapters Three and Five). However, if we examine the other characteristics of punitiveness, it is evident that Lebanon does in fact fall into the global punitive climate. This is mostly due to the human rights violations that occur throughout the Lebanese criminal justice process. Through examination of the Lebanese criminal justice system process, this chapter has highlighted how its structure and the way in which it functions helps give rise to violations. This chapter therefore examined:

- The lack of legal representation during detention: this risks promoting human rights violations due to the role lawyers have in monitoring detention and interrogation processes.
- The over-reliance on confessions: this places more pressure on police officers to obtain confessions. Therefore resulting in the abundance of forced confessions.
- Lack of resources within police stations: for example the lack of monetary resources to provide adequate food and water for detainees.
- Lack of political will surrounding criminal justice issues: this included the lack of a functioning government, the lack of interest in criminal justice matters, and the lack of

stability. All three factors play a role in providing an environment for human rights violations.

- The problem with rotating judges through the various Lebanese courts: this might result in promoting violations as it risks judges succumbing to corruption and other violations due to job dissatisfaction.
- The difficulties in obtaining witnesses to the use of torture by police officers, as well as doctor reports to be used in court to prove illegal arrests and detention procedures.
- Problems with sentencing guidelines being too general leading to discrepancies in sentencing.
- The failure of providing guidelines to ensure a systematic prison entry process across all prisons within Lebanon. The lack of such a guideline results in the variation of prisoners' experiences of entry processes across the prisons.
- The problem of overcrowding that results in various other human rights violations.

Examining such issues has helped highlight how and where Lebanon fits into the populist punitive framework. It has therefore built on previous chapters and described how the criminal justice system functions. It has further concluded that Lebanon's criminal justice system is in nature punitive at the various criminal justice stages.

Characteristics of punitiveness can be seen at the beginning from the point of arrest where numerous suspects are not only subjected to torture and forced confessions but where suspects are detained for periods longer than what is legally allowed. In addition to extended detention periods, and the use of torture, punitiveness can be seen within the various court systems, and prisons. It is not only the process that results in the criminal justice system being punitive but also the attitudes of the criminal justice agents (i.e. judges, lawyers, police officers and prison guards). For example, numerous criminal justice agents believe that sex offenders do not deserve human rights, and are xenophobic therefore resulting in punitiveness attitudes.

Moving through a punitive criminal justice system can have numerous effects on prisoners and anyone who has had any contact with this system (for example suspects and victims). These effects can include an increase in criminality, the inability to successfully reintegrate into society and even self-harm. For example, one participant was excluded from this study due to expressing her desire to kill herself because of what she had been through (i.e. the

interrogation, court process and now living in prison). It is because of these reasons that moving away from punitiveness is important, not just for Lebanon but all countries across the globe. Chapter Seven will attempt to provide recommendations derived from interviews and from existing international research as to how Lebanon's criminal justice system can improve in upholding human rights and in return move away from a generally punitive system to one that focuses on rehabilitation and treatment.

Chapter Seven

Conclusion

Introduction

The aims of this thesis were to:

- (1) Explore how the Lebanese criminal justice system deals with sex offenders.
- (2) Understand why the criminal justice system deals with sex offenders the way it does.
- (3) Examine whether this treatment can build on the argument that Lebanon's criminal justice system is a punitive system.

To fulfil these aims, the thesis engaged with scholarly discussions and research surrounding popular punitiveness, human rights and criminal justice. Moreover, through conducting an examination into existing research and the dissemination of its own findings surrounding the criminal justice system and human rights violations, this study firmly placed Lebanon within the recent popular punitive climate. This chapter examines the concluding thoughts resulting from this study. In addition to this, this chapter discusses the limitations of the study and offers recommendations for further research.

7.1 Key Findings

This section examines the main findings of this study. It is divided according to the three main areas of this study. (1) Popular punitiveness within Lebanon, (2) human rights violations and (3) the Lebanese criminal justice system.

7.1.1 Popular Punitiveness

The rise of popular punitiveness is a result of the interplay of numerous factors such as politics, media, the public's fear of crime, moral beliefs as well as the lack of trust in the criminal justice system. These factors can be seen to interlink in several ways. For example, the media through its focus on crime influences, or even creates, the public's fear of crime and lack of trust in the criminal justice system. Moreover, as a result of this focus and the lack of trust in the criminal justice system numerous politicians across the world believe that there is a need to be tougher on crime. The media in turn advertises this need and promotes it, through its reporting of crime. This does not mean that the media is the main influence in political thinking, however it

brings issues such as the public's fear of crime and its lack of trust in the criminal justice system to the attention of politicians.

The belief that we need to be tougher on crime results in several political strategies focusing on tougher policies and in general tougher criminal justice systems that focus primarily on punishment. This has become a global trend within many countries across the world. However, as this study has discussed, this does not necessarily mean all countries share the same level of punitiveness. Factors that determine a country's level of punitiveness include, the level of the public's fear of crime, the public's trust in the criminal justice system, the media's reporting of crime the criminal justice policies, and the politicians' interest in criminal justice issues.

Examining punitiveness in relation to sex offences, sex offender registers have been examined as being a by-product of punitiveness. Through the use of existing literature this study explored the existing argument that the trend of popular punitiveness has resulted in the strengthening of sex offender registration guidelines. The ways in which sex offender registers have been strengthened (within the United Kingdom) include for example:

- Decreasing the period for reporting to (i.e. notifying) the police from fourteen to every eight days,
- Forcing offenders to report to police stations rather than the police visiting
- Registering offenders irrespective of whether the offences have occurred abroad or at home.

In addition to these changes, new offences and cautions have been added to the registers. This meant that as a result of punitiveness, offences which were not previously included (such as child abduction) have been recently included as acts liable for registration. As was previously mentioned there are numerous factors that result in punitiveness. In relation to the strengthening of sex offender registrations, the changes have been a result of the increasing demand by the public to increase surveillance, and the monitoring of sex offenders. The demand was due to the moral panic surrounding sex offenders, which was largely fuelled by the media.

Several countries have implemented the use of sex offender registers, however the characteristics of the registers vary according to country. This is because of the varying levels of punitiveness within the countries. In relation to Lebanon, this study has revealed that there is currently no form of monitoring or surveillance of sex offenders and subsequently there is no sex offender register. This does not imply that Lebanon has failed to join in the popular punitive trend, instead numerous other factors within Lebanon point to its punitiveness.

Despite the lack of existing systematic research, through conducting interviews with several criminal justice agents and sex offenders, this thesis has shown that Lebanon can be considered to be a punitive nation due to several factors. These factors include:

- (1) The criminalisation of marginalised groups such as lesbian, gay, bisexual and transsexual people.
- (2) The existence of the death penalty despite it not being carried out since the early 2000s.
- (3) The public's willingness to administer pressure on the court to execute the death penalty.
- (4) The willingness to imprison offenders due to the lack of other options (such as open prisons, rehabilitation orders, community punishment, etc.).
- (5) The inclination to imprison.
- (6) The human rights violations that occur throughout the criminal justice system.
- (7) The lack of rehabilitation and treatment programs within prisons and post imprisonment.

7.1.2 Human Rights in Lebanon

Through interviewing sex offenders concerning their attitudes and opinions towards their trajectory through the Lebanese criminal justice system, numerous human rights issues arose which add on to pre-existing literature. Non-Governmental Organisations as well as the United Nations, and the International Community for the Red Cross (ICRC) have detailed their pre-existing research surrounding human rights in Lebanon. Such research claims human rights violations experienced within Lebanese courts include:

- (1) Inability of the accused to understand court proceedings due to the lack of a translator, and/or the lack of understanding of classical Arabic,
- (2) Linguistic manipulations,
- (3) Pre-trial detention,

- (4) The lack of an independent judiciary,
- (5) The use of military courts on civilians, and the presence of discrimination.

In relation to human rights violations experienced by police, these included:

- (1) The use of torture,
- (2) Succumbing to corruption that in turn leads to favouritism or harsher treatment of detainees, and
- (3) Forcing confessions.

Human rights violations within prisons reported by existing research include:

- (1) Inhumane prison conditions,
- (2) The lack of medical care,
- (3) The use of torture,
- (4) Inadequate supervision of prisoners giving opportunity for abuse by fellow inmates

This study, through interviewing sex offenders and criminal justice agents surrounding the trajectory of sex offenders through the Lebanese criminal justice system, has built onto this existing knowledge. It has provided detailed findings surrounding the various human right violations experienced by sex offenders as well as provided an explanation for these violations. It is important to remember that human rights violations are not specific to Lebanon, since numerous other developing and developed countries suffer similar violations. This study therefore, did not aim to highlight Lebanon's uniqueness; instead, it aimed in detailing the situation within Lebanon and fill in the gaps surrounding the trajectory of sex offenders within the Lebanese criminal justice system and any human rights violations.

Examining the findings, it became evident that numerous general human right violations reported by bodies (such as the United Nations and ICRC) were also experienced by sex offenders at various stages of the Lebanese criminal justice system. Moreover, this study has found that in some cases, these violations were intensified due to the nature of the offenders' accusations.

To begin with, human right violations experienced by sex offenders at the hand of police officers included:

- (1) The use of excessive force upon arrest,
- (2) Lack of informing suspects of the reasons for arrest or their rights,
- (3) Torture within police stations as a form of punishment or as a means to obtain a confession,
- (4) The failure to provide suspects with their right to a phone call,
- (5) Some participants [sex offenders] claimed that the police or government set them up.

In relation to violations within courts, this thesis supports pre-existing research through highlighting issues of delays and corruption. However, in addition to these findings, this study brought to the forefront violations such as:

- (1) Lack of legal representation,
- (2) Corrupt judges and lawyers,
- (3) Discrimination and xenophobia amongst judges and lawyers.

Moreover, this study found that within prisons human rights violations included:

- (1) The use of torture and violence by prison guards,
- (2) Inhumane and degrading treatment by prison guards,
- (3) Failure to provide basic privileges,
- (4) Negligence in relation to prisoner on prisoner violence,
- (5) Discrimination according to crimes, and
- (6) Preferential treatment due to connections.

In addition to these violations, overcrowding was reported to have resulted in numerous more violations. Lebanese prisons were all found to be overcrowded as collectively they housed between 2,223-3,347 more prisoners than they were built to fit. This extreme overcrowding has resulted in human rights violations due to the lack of appropriate sleeping space, the lack of food, and in general unhygienic environments.

Due to the lack of known recidivists within this study, this study was unable to reveal what happens once offenders are released from prison. Therefore, sex offenders' human rights within the general society and upon release were not examined. The lack of recidivist does not mean that there are no sex offender recidivists within Lebanon, instead it points to the:

- Lack of interest in monitoring,
- Lack of interest in surveillance,
- Lack of interest in criminal justice issues in general, and
- The lack of monetary resources to conduct monitoring and surveillance.

As a whole, the findings have indicated that sex offenders experience human rights violations at the various stages of the criminal justice system. These findings were not solely a result of interviews with sex offenders, as numerous criminal justice professionals also reported these issues. In general, lawyers, judges, police officers and prison guards did not attempt to conceal the abundant human rights violations instead they acknowledged their presence while distancing themselves from them. For example, although some criminal justice agents did not believe that sex offenders deserved human rights they claimed that it was others that had violated offenders' rights and not them.

Examining Lebanon's history with human rights, it shows that despite playing a vital role in the development of the Universal Declaration of Human Rights, and has signed numerous legislations, and conventions (including the Arab Charter on Human Rights) it (as a country) still condones and promotes human rights violations. Interviews with criminal justice professionals and sex offenders allowed this study to understand why such violations may occur within the Lebanese system. According to the findings of this study, violations happen due to several factors. Existing literature provides political, global and economic reasons for human rights violations, and although some of these can be applied to Lebanon, they cannot account for all violations. Therefore, other explanations were developed as a result of the interviews. These included: encased corruption, lack of monitoring and accountability and personal attitudes and beliefs.

- (1) Corruption: All participants highlighted various forms of corruption and their crucial role in the concession of human rights violations. These forms included the acceptance of bribes, and political and religious pressure.
- (2) Monitoring and accountability: Although some criminal justice agent participants highlighted the existence of a Committee against torture within Lebanon, responsible for the monitoring and accountability of human rights violations, several issues were highlighted. For example, one of the major issues was that the committee was made up of members of the ISF therefore resulting in a conflict of interest that in turn affects rates of accountability.
- (3) Personal beliefs and attitudes: several participants were found to hold punitive attitudes towards sex offenders. For example, most participants believed they should primarily be imprisoned and do not deserve human rights. These punitive attitudes play a role in the occurrence of human rights violations.

Examining the different types of human rights violations within the Lebanese criminal justice system it can be concluded that participants' experiences of the Lebanese criminal justice system is in general a damaging experience with adverse consequences. These damaging experiences are an issue as it might have a detrimental effect on re-offending rates and may in turn promote more human rights violations. It is therefore pivotal that issues surrounding corruption, police culture, lack of monitoring, discrimination and other factors that result in human rights violations be addressed within Lebanon. However, in order to do so it was also important to re-examine the way in which the Lebanese criminal justice system is structured and functions. This was important because the structure and functioning of the system, has been show to have a detrimental effect on promoting human rights within Lebanon.

7.1.3 The Lebanese Criminal Justice System

Through the interviews conducted, this study has uncovered how Lebanon's criminal justice system is structured and how it functions. Examining the process as a whole meant this study had to enquire into the processes of arrest, detention, courts, and prisons. Investigating these processes, participants highlighted several issues with how the criminal justice system is

structured and how it functions. These issues included:

- (1) Religious Influences: Criminal justice professionals accentuated the various roles religion plays within the criminal justice system. Firstly, religion was found to play a role in hiring governmental employers such as judges, lawyers and the head of the police stations. Secondly, religion was found to be instrumental in the formation, implementation and survival of out-dated legislation. For example, religion was found to be the main reason for the criminalisation of homosexuality, legalisation of marital rape and the existence of a 'loophole' to the criminalisation of rape.
- (2) Legislation issues: legislation was seen to be out-dated and heavily reliant on religion.
- (3) Lack of resources: Judges highlighted the lack of space, and resources to conduct court hearings, while police officers highlighted the lack of resources available to investigate sex offences. Sex offenders on the other hand highlight the lack of rehabilitation and treatment, the lack of government interest in criminal justice matters, and the failure to implement procedures that ensure a fair trial.
- (4) Lack of governmental support: criminal justice professionals highlighted the fact that there is a lack of support from the government to adequately fulfil their jobs.
- (5) Disregarding of existing legislations: participants highlighted the fact that there are several legislations (such as the Lebanese Penal Code 47) that were formulated to ensure human rights are upheld. However, despite such legislation, the corruption and the lack of monitoring of violations makes this law significantly irrelevant.

It is because of these findings (i.e. the poor function and structure of the criminal justice system and the human rights violations) that many participants were negative towards the criminal justice system. As a result of the findings, several recommendations are made in Chapter Eight to aid in making the trajectory of sex offenders through the Lebanese criminal justice system a more humane experience. These recommendations revolved around ways in which treatment of criminal justice agents and sex offenders could improve. These recommendations included:

- Increasing pay
- Ensuring the government prioritises criminal justice issues
- Provide training surrounding: prison managements, human rights, interrogation techniques
- Improve existing resources
- Achieve funding

7.2 Research Limitations

In drawing this study to a close it is important to think about the research limitations by reflecting back on the way it has been conducted. Existing literature is important for any research as it forms the basis of the study's literature review and helps provide a clear foundation for the study. As this study has highlighted there is very limited existing research in relation to the Lebanese criminal justice system, and human rights violations experienced by sex offenders within Lebanon. This meant that this study was exploratory more than explanatory, as there was a lack of a foundation to begin with.

A second limitation was the lack of a nation wide examination of police forces and prisons. Although this study attempted to obtain a diverse range of participants from various police stations, prisons and judge and lawyer offices, a lot were excluded due to the unstable situation within Lebanon. This situation included the spontaneous outbursts of violence and suicide bombing and meant that stations and prisons within the south and other areas of Lebanon were excluded. This was a significant limitation as particularly the South of Lebanon is a predominately Muslim area and it would have been beneficial to be able to examine whether the participation of these people would have resulted in a variation in opinions and experiences. Moreover, the replication of this study within other prisons and police stations across Lebanon would have enabled a wider interpretation of the situation.

In addition to the exclusion of certain areas, this study did not take participants' religion into account. As was previously mentioned, participants' religious affiliations were not taken into account due to religion being a sensitive topic putting rapport at risk (See Chapter 4.2.2). However, the study has shown that religion plays a significant role within Lebanon, especially in relation to the definition and criminalisation of sex offences. Taking religion into account would

have enabled the study to further explore how religion can shape the attitudes of criminal justice agents and sex offenders towards sex offending. Considering religious affiliations into account would have allowed for the comparing of results amongst the various religious sects.

One further limitation to the study is the fact that none of the prison wardens, or senior police officers participated in the study. Senior officers and wardens refused participation for several reasons some of which can be hypothesised. These included: (1) lack of interest (2) the fact that they were not specifically mentioned in the permission obtained from the Ministry of Defence and (3) due to their unavailability. This study has shown that one of the reasons for the existence of human rights violations and corruption is the lack of accountability and the corruption of senior officers. Incorporating senior officials into the study would have allowed further probing into these factors as well as other factors which promote human rights violations within police stations and prisons.

Moreover, another limitation was the inability to randomly select police officers and prison guards. The prison warden and the heads of the police stations chose police officers and prison guard to participate. This was due to a set of procedures that could not be violated without specific permission from the government. The random selection of police and prison guard participants would have ensured that there was no interference from senior officials despite the reporting anonymity of the findings. Adding to this, another limitation could be the lack of involvement of ministers of parliament within the study. This study highlighted that politics, and the government play an important role in the criminal justice system as they can affect a country's level of punitiveness. Examining parliament members' attitudes towards sex offending, and human rights would have therefore enabled this study to further enquire into the barriers preventing the rehabilitation and treatment of sex offenders.

This study relied on the qualitative methodology of data collection and analysis, however one limitation was the failure of being able to quantitatively explore the issue of sex offending in Lebanon. Therefore, more of a quantitative methodology should be undertaken in the future to provide a wider understanding of the prevalence of sex offending, and rates of criminalisation.

7.3 Future Research

This study has attempted to capture the whole process of the trajectory of sex offenders within the Lebanese criminal justice system and the human rights violations that occur. However, there are several recommendations for future research as some aspects were excluded or in need of further research.

7.3.1 Researching the Issue of Sex Offending within Lebanon

Interviewing criminal justice agents and sex offenders it was evident that in general participants did not believe sex offending was an issue within Lebanon. Although some research does exist, it is centred on sex work and homosexuality. This may be due to two reasons: (1) Compared to other sex offences, homosexuality and sex work have less of a culturally perceived taboo attached to them. (2) The public might, due to their visibility, see homosexuality and sex work as more of a problem within Lebanese society compared to other offences (See Chapter Three). It is therefore recommended that future research examine the prevalence of the various types of sex offending despite the taboo and the commonly held belief that they do not occur in Lebanon. Researching the prevalence of sex offending will highlight the existence of such offences within Lebanon, therefore emphasizing the need to combat sex offending. Moreover, highlighting the prevalence of sex offending will also raise awareness amongst the public. Raising awareness is important in order to change the common held belief that sex offences do not occur in Lebanon. Increasing awareness might encourage people to come forward once they have fallen victim to sex offending. This awareness might therefore result in offering increased protection and support to victims.

In addition to researching the prevalence of sex offences in Lebanon, it is important to research what happens to sex offenders upon release from prison. As this study has highlighted, there is no information surrounding what happens to offenders post release. It is therefore important to examine whether these offenders further recidivate, or are able to successfully re-integrate and/or leave the country.

In order to carry out such examinations, it is also important to delve into cultural and religious taboos. Understanding what cultural and/or religious taboos entail, as well as how they were developed will aid in paving the way to conducting future research surrounding criminal justice and sex offences.

7.3.2 Further Research Within Prisons

It is recommended that further research be conducted within the various Lebanese prisons. Such research can include examining prisoner on prisoner violence, rates of education in prison, etc. Research will help criminal justice professionals and scholars as well as the public understand how Lebanese prisons function and how they can be improved. Additional examination of prisons will shed further light on human right violations; this will in turn allow for the development of recommendations for improvement.

7.3.3 Further Research on the Causes of Corruption Within Lebanon

Although some of the causes of corruption have been highlighted throughout this study (for example, the lack of appropriate salaries and benefits to judges, lawyers, prison guards) there is a need to examine other factors. According to Tim Newburn (1999) there are several reasons for corruption. These reasons include:

- Discretion
- Low managerial visibility
- Peer group secrecy (i.e. police culture)
- Managerial secrecy
- Organisational characteristics (i.e. integrity of leadership, perception of legitimate opportunities, etc.).
- Corruption controls (i.e. how guardians are themselves 'guarded') (Newburn, 1999:17).

It is important to examine whether such factors also play a role in Lebanon, as understanding the various causes of corruption will aid in preventing such practices.

7.4 Final Thoughts

Examining these areas of future research, and the limitations there are of course various ways in which the trajectory of sex offenders through the Lebanese criminal justice system could be researched. However, as an exploratory research, this study has taken all the steps necessary in order to ensure an ethical investigation into the way sex offenders move through the Lebanese criminal justice system while bringing the various human right violations to the forefront. It has overcome numerous barriers relating to gender and access in order to provide a research that sheds light on a predominantly ignored area (i.e. sex offending and Lebanese criminal justice).

It has also provided a strong argument regarding Lebanon's punitiveness. Presenting Lebanon as a punitive country with abundant human rights violations means that rehabilitation and human rights have taken a back seat when it comes to dealing with sex offenders and offenders in general. Rehabilitation and human rights are important for several reasons, not least of which is to ensure that after imprisonment an offender is able to re-integrate into society without any resentment towards the criminal justice system.

This study has provided various recommendations to allow for the move from punitiveness to a more rehabilitative and humane system. However, the success of these recommendations can quickly be questioned due to the culture, general lack of will and situation within Lebanon. All of these factors have it seems resulted in Lebanon turning a blind eye to several issues within the country (whether it is criminal justice issues or issues such as the current waste disposal crisis). This has resulted in many Lebanese taking to media outlets to continuously criticise the country, although with no or very little success. One such criticism is the published blog of Michael Karam (2013) which claims "Lebanon is too corrupt to care about its corruption".

This study has highlighted the major impact corruption has had on the upholding of human rights, it can therefore be concluded that perhaps Michael Karam is correct and corruption is a major barrier to a significant number of the issues within Lebanon. Perhaps it is therefore essential for international communities, bodies and organisation to pressure Lebanon and aid in its fight against corruption. This may then pave the way to the focus on numerous other issues such as human rights violations of prisoners within Lebanon.

Chapter Eight

Recommendations

Introduction

This study has provided a detailed examination into aspects and issues surrounding the trajectory of sex offenders through the Lebanese criminal justice system. These included: corruption, human rights violations, and problematic attitudes. The study has further examined the structure of the Lebanese criminal justice system, and how this structure and the way in which the system functions has provided an arena for various human rights violations. Through the examination of such aspects and the various human rights issues, it was concluded that Lebanon's criminal justice system is punitive in nature and therefore fits into this global climate of punitiveness.

One of the main attributes to this global punitive climate (as was previously mentioned in Chapters One, and Six) is the move away from human rights and rehabilitation towards a focus on punishment. This move has resulted in numerous human rights violations. Human rights, as Chapter Two, has discussed, are rights attributed to a person because they are 'human'. This implies that despite a person's race, age, ethnicity, history and criminal record, he/she has certain rights attributed to them. These rights include the right to live a life free of torture, the right to privacy, the right to live a life free of discrimination, etc. However, through the focus on punishment, many of these rights have been violated. There is therefore a need to bring punitive systems back in touch with rehabilitation, treatment and other human rights.

This chapter will examine some recommendations as to how Lebanon can move towards a more rehabilitative approach to sex offending and a more humane system. This is important because of the importance of human rights and because punitive solutions to crime are deemed to be "short term" (Benson, 2003:46). Some of these recommendations for example, preventing arbitrary detention and eradicating the death penalty are straightforward while others are more complex. Despite their complexity and/or simplicity most of these recommendations are not likely to be easily implemented. This is due to Lebanon's current unstable situation, lack of monetary resources and other issues that are deemed more important. For example, the massive influx of Syrian Refugees and the on-going waste disposal

crisis. Despite this, it is important to examine these recommendations. The recommendations provided within this chapter will be a mixture of those provided by participants, and those resulting from the study as a whole (i.e. from the literature review as well as the findings).

8.1 Resources

8.1.1 Increase Funds

In order for numerous improvements and the implementation of the following recommendations, the first recommendation is to achieve monetary funds. Lebanon is currently in debt and it is because of this debt and the lack of money that several issues arise and the country is not able to move forward. The country's debt is problematic when the government runs all prisons in Lebanon as it means there are not be enough monetary resources that can be allocated to the prisons. This situation is different than countries where prisons are privately owned and therefore receive funding non-governmental sources. For this reason it is recommended that criminal justice agents should focus on achieving funds from international organisation in order to help Lebanon progress.

8.1.2 Increase in Trainings and Specialisations

8.1.2.a Police Officer Training

Within Lebanon there is a general lack of training and specialisation amongst the police (See Chapters Five and Six). The lack of specialisation and training is an issue across the criminal justice system since police officers are not only responsible for the investigation and interrogation of suspects but they are also responsible for the management of the Lebanese prisons. "Officers appointed to specific functions do not have the sufficient knowledge and skills. This is especially the case regarding officers appointed to the prisons and on street patrols and detective tasks" (Nashabe, 2009).

Examining the narratives of police officers, numerous participants claimed that they have never been trained in interrogation techniques or in prison management. The lack of training and specialisation allows for numerous human rights violations to occur (See Chapter Six). It is therefore recommended that police undergo further training provided by specialist and/or international figures.

Such training could include:

- Officer Safety Training
- Communication training
- Community partnership
- “Witness and suspect interview training” (Greater Manchester Police, 2012)
- Search techniques
- “Training in relation to executing search warrants, court and file skills” (Greater Manchester Police, 2012).
- Mental illness training (i.e. how to spot and deal with mentally ill people).

8.1.2.b Prison Guard Training

As was previously mentioned in previous chapters, prisons within Lebanon are managed and run by the ISF. This is despite recent attempts at shifting their management to the Ministry of Justice. It is therefore recommended that officers receive appropriate training concerning:

- Prison management
- Communicating and working with vulnerable people
- Conflict resolution

In addition to the training mentioned above, there is a need to train officers (both police officers and prison guards) in human rights. It is therefore recommended that officers familiarise themselves with the Universal Declaration of Human Rights as well as other national and international legislation. Such training will ensure that officers are fully aware of the rights of suspects upon arrest as well as throughout detention. It is further important to stress (through training) that human rights are rights attributed to a person because he/she is human. Therefore, these rights extend to those accused of crimes.

Increasing police officers knowledge of human rights will ensure that they are able to implement them within the field. The Office for the High Commission of Human Rights has published a manual on human rights training for police officers. It is recommended that this manual be used as groundwork to the training of Lebanese police officers.

8.1.3 Introduce Technology

Numerous delays were found to occur within the court process due to the lack of technology and the loss of case files. Case files are at risk of being lost due to the fact that they are all hand

written and passed from the police, to the various judges within the various court systems (See Chapter Two and Three). Due to these effects, it is recommended that technology be introduced across the various criminal justice system stages.

In addition to reducing the delays and ensuring no case files are lost, the introduction of technology would allow for the creation of databases. This is important in order to store case files making it easier for criminal justice agents' access to these files. Due to data protection however these files will not be accessible to all criminal justice agents, and will only be limited to those who are directly involved in the case.

8.1.4 Improve Working Conditions

This study has shown that within Lebanon judges do not choose the courts they wish to preside over and instead are randomly placed within the various courts. Although this also occurs in other countries, the working conditions of some of the posts are "insulting" (Judge 3). This random placement of judges and the bad working conditions means that there are judges who are dissatisfied with their positions (See Chapter Six 6.2.3.b). Because of the link between job satisfaction and productivity, it is recommended that judges apply for the positions of their choosing rather than be forced into them. Moreover, it is recommended that judges receive better offices, technology and better pay. Ensuring this will, not only aid in the fulfilment of their duties but will also increase their job satisfaction and in turn prevent corruption.

8.1.5 Build More Prisons

Due to the lack of segregation and the over-crowding of Lebanese prisons, it is recommended that more prisons be built. Building additional prisons will not only reduce the over-crowding (and in return the human rights violations that occur because of over-crowding), but it will also allow for specialised prisons and the introduction of open and closed prisons). In order for prisons to be built, there are several barriers to overcome. These barriers include:

(1) Monetary: Lebanon is currently 68.73 Billion US Dollars in debt (Ministry of Finance, 2015). Therefore, in order to provide new prisons, funds are needed.

(2) Resources: In addition to being in debt, Lebanon faces scarcity of significant infrastructural elements and particularly water and electricity. Therefore, before such prisons should be built it is important to target issues surrounding such resources.

It is recommended that when these prisons are built, all prisons are managed by specialized people and the Ministry of Justice not the ISF. Specialised prisons would allow for the segregation of sex offenders and the formation of a prison specifically for convicted sex offenders. For example, it would allow for a prison such as U.K.'s HMP Whatton²⁵, albeit on a smaller scale, to operate within Lebanon. Segregating prisoners would prevent the likelihood of prisoners learning from each other (See Chapter Six). Moreover, it would reduce the likelihood of high-risk offenders influencing low risk offenders. It is therefore recommended that segregation occur within Lebanon according to the offenders' levels of risk and if possible according to the various types of crime. However, in order to do so there is a need for the development of risk assessments as well as training for appropriate people in how to conduct an appropriate risk assessment.

The segregation of prisoners and the building of specialised prisons would allow for the development of rehabilitation and treatment programs. In addition to having positive effects on rehabilitation it will also aid in reducing over-crowding. The reduction in over-crowding will in return ensure numerous other improvements. For example:

- (1) It will ensure that prisoners are less likely to be at risk of unwanted sexual contact as close proximity sleeping arrangements will be eradicated.
- (2) It will ensure that proper medical care is provided to all prisoners, as doctors will be able to provide the appropriate amount of time and care to each prisoner.
- (3) It will also ensure that there is proper ventilation, lighting, and potable water.

8.2 Practices

8.2.1 Increases in Salaries and Benefits

²⁵ HMP Whatton is the largest prison for adult sex offenders in Europe, and it houses 841 convicted sex offenders. "Whatton is a specialist treatment centre for rehabilitation, offering a wide range of sex offender treatment programmes, more than any other prison in the U.K." (BBC News, 2015 March 30).

This study, through the examination of existing research and the dissemination of findings has found corruption to be widespread within Lebanon. Various forms of corruption have been found to exist, with one such form being the acceptance of bribes. Numerous police officers have been found to have accepted bribes in order to administer harsher treatment of detainees within police stations and prisons. One reason for the acceptance of such bribes is the low income and benefits attributed to policing. Another reason is the societal acceptance that corruption is a norm. "Corruption has always existed in Lebanon, its effects were magnified in 1990 after the end of the fifteen years civil war" (The Lebanese Transparency Association, n.d.).

This situation is not specific to Lebanon as much research has "suggested that bribery and general financial corruption is a far from unexpected outcome in circumstances where public officials are inadequately paid" (Newburn, 1999). Although not all police corruption is a result of low salaries, the raise in salaries may be a complementary tool in the fight against corruption. The recommendation to raise incomes and benefits can further be extended to judges who like police officers receive a low salary and are therefore more likely to accept bribes. However, it is unknown where the funds to carry out such a recommendation will come from given Lebanon's current financial deficit.

8.2.2 Equipment

There is a general lack of equipment available to police officers. This equipment includes technology such as lie detectors, rape kits, DNA databases as well as weapons and vehicles. The lack of equipment available to officers was used as a justification for torture by some police officers (See Chapters Five and Six). Providing appropriate equipment to the police, will therefore play a role in reducing the use of torture and threats as a means to achieve confessions that are later used in courts as evidence. It is for this reason one recommendation would be the investment in equipment, especially equipment that may aid in the investigation and interrogation of sex offences (i.e. rape kits, DNA databases, etc.).

8.2.2.a Standardise Rape Kits

Although a few participants within this study reported victims were tested for bruises, semen and other evidence, this testing was in no way systematic (See Chapter Five and Six). It is therefore recommended that rape kits are used and the extraction of suspects DNA is undertaken whenever a victim of a sexual offence comes forward. It is moreover

recommended that these rape kits be analysed as soon as they are carried out. This is to ensure that rape kits are not stored and forgotten. The U.S. for example, has been recently criticised for the numerous unexamined rape kits. In order to prevent this from happening, it is recommended that sufficient people are employed to examine these kits and for people to monitor the process.

8.2.3 Increase Monitoring

8.2.3.a Monitor Arrest and Detention Procedures

This study has highlighted numerous human rights violations that are committed by the police at the point of arrest and throughout detention (See Chapters Two, Three and Five). In order to prevent these violations from happening, better training, monitoring and accountability is needed.

A committee is currently responsible for the monitoring of police officers and their stations (See Chapter Five). However, it is evident that there are several issues with this committee as violations are still occurring. Possible issues include the lack of consistency in observation of police stations as well as the fact that the body is comprised of Internal Security Force members (See Chapter Six). These issues result in the lack of accountability which leads to promoting torture and other violations, as officers believe that they are able to get away with it. It is therefore recommended that a new body/committee is formed comprised of non-ISF members who conduct routine and stringent monitoring of detention centres (i.e. prisons and police stations) across Lebanon. Once this new (non-ISF) committee is developed its duties should, in addition to monitoring and punishing torture, ensure stations have the appropriate resources to tend for their detainees. This means ensuring stations have adequate food, water and medical resources at all times. Ensuring such resources are present will further improve Lebanon's repertoire of human rights.

It is also recommended that this body ensures officers guilty of violations and the use of torture are held accountable through implementing consequences such as retraining, demotion, dismissal or imprisonment. Holding officers accountable will ensure that they are less likely to engage in torture, as the risks of being caught would be too high. Moreover, holding officers accountable would aid in changing the current police culture that accepts the use of torture (See Chapter Five). Changing the cultural acceptance of torture within the police could result in

the abandonment or reduced incidences of torture as it reduces the pressure of using torture as a means to 'fit in' with fellow officers. Raising the costs and the risks associated with the use of torture will not only be beneficial for Lebanon. In fact it may aid countries such as Russia and the U.S.A where the use of torture and discrimination by the police is still rife.

The United Nations might play a supportive role in the fight against torture. Chapter Two has highlighted the role of shaming, sanctions and co-option in implementing human rights. It may, therefore be argued that the United Nations need to implement strategies such as shaming and sanctions towards countries such as Lebanon where torture is widespread.

8.2.3.b Monitor and Prevent the Use of Arbitrary Detention

Lebanon faces a problem with arbitrary detention as numerous suspects are held within police stations and prisons awaiting trial for significant periods of time (See Chapter Five). In order to reduce the risk of arbitrary detention, it is recommended that arrest and court proceedings are monitored. This is especially important since not all suspects are able to acquire legal representation, therefore do not have anyone following up on their case.

According to the Penal Reform International (2013) pre-trial detention is only necessary in order to prevent suspects from "absconding, committing another offence, or interfering with the course of justice during pending procedures" (Penal Reform International, 2013). According to this study the majority of prisoner participants were subjected to pre-trial detention (See Chapter Six). It is therefore recommended that suspects' risks of absconding, committing another offence and/or interfering with the course of justice be evaluated before their detention. If suspects found to not pose a risk, it is recommended that they be permitted to await trial in the comfort of their homes.

8.2.3.c Monitor Prisons for Human Rights Violations

Similar to police stations, torture is rife within prisons. This is due to several reasons that include the lack of training and the failure of prison guards (who are essentially police officers) to acknowledge prisoners deserve human rights. The use of torture on prisoners is detrimental as it results in a feeling of resentment towards the state and the system of authority (See Chapter Six). It is for this reason that the management of prisons should not be in the hands of the Internal Security Forces and should instead be controlled by specialised civilians. Despite whether prison management is the duty of the ISF or civilians it is important the monitoring of prisons be carried out routinely. Such monitoring can be conducted by Intergovernmental

Organisations (IGO), Governmental Organisations (GO) and NGOs. However, it is important for these three, IG, IGO, and NGOs work together to ensure successful monitoring and implementation of human rights (See Chapter Two).

8.2.3.d Monitor and Surveillance of High Risk Offenders

Within this study several police and prison guards spoke of how once released there are no measures put in place to support and/or provide follow-ups for prisoners (See Chapter Six). It is therefore important to introduce and implement various monitoring and surveillance techniques for sex offenders and other high-risk offenders. These techniques may include a sex offender register, and/or the implementation of sex offender orders. However, in order to implement these techniques it is important for international police officers and specialists to provide training to the Lebanese surrounding how such concepts could function. In conjunction with this training, it is recommended that officers receive human rights training. This is to ensure that although monitoring and surveillance techniques are implemented they do not violate the human rights of the offenders.

8.2.3.e Punish Discrimination

Discrimination needs to be prevented due to the fact that it has numerous negative effects. For example, discrimination according to sex, race and/or gender within courts violates a person's right to a fair trial (See Chapter Five). It is therefore important to monitor court processes, and review sentences in cases where discrimination may have played a role.

Another way in which discrimination was found to have a negative effect is when discrimination according to crime type occurs. This study found that many criminal justice agents possessed different attitudes towards sex offenders than other criminals. As a result of these attitudes, sex offenders experienced harsher treatment throughout the criminal justice process (See Chapter Five). It is therefore recommended that, like any other form of discrimination, there should be consequences for such actions.

In addition to monitoring and punishing discrimination, several laws need to be amended within Lebanon as they pave way to discrimination. One such law is Article 487 that criminalises adultery. This Article classifies women who are cheating as sex offenders and poses the risk of discrimination and violence against women (Office of the United Nations High Commissioner for Human Rights, 2012). It is because of these human rights violations that numerous countries have moved towards the de-criminalisation of adultery.

8.2.4 Create a Code of Conduct for Judges and Lawyers

As this study has shown, there are various forms of corruption that run through the Lebanese criminal justice system. Examining the theory surrounding corruption, both Public Choice Theory and Organisational Culture Theories can be successfully applied to Lebanon (See Chapter Five). Examining these theories it is evident that they move away from blaming an individual's character to blaming the lack of punishment and consequences for the use of corruption. A recommendation to prevent corruption could therefore include raising the costs and holding people accountable. This, similar to the case of torture, would ensure the dismemberment of a culture which promotes corruption. In order to aid this process it is therefore important that a code of behaviour is developed which explains to judges and lawyers what is considered to be unacceptable behaviour and the punishments attributed to violations.

8.2.5 Create a More Detailed Sentencing Guideline

Although a sentencing guideline does exist, it can be argued that compared to other sentencing guidelines it is extremely broad (See Chapter Six). It is therefore recommended that judges be provided with a sentencing guideline that is more specific and reduces the likelihood of variation in sentencing among judges. In order to do so, it is recommended the taking of various concepts from existing international guidelines and adapting and adopting them within Lebanon. This however, can only be done after criminal justice agents undertake specialised research examining the suitability of proposals.

8.2.6 Encourage Active Involvement of Prison Guards

If the management and administration of prisons within Lebanon were to remain with the ISF then it is important that the ISF are involved within prisons. Chapters Five and Six have shown that prison guards have little control within prisons. This results in numerous issues not least of all the abundance of prisoner on prisoner violence. It is therefore recommended that prison guards take a more active role in the management of prisoners from the point of entry until release. This role includes ensuring the prisoner's cell, providing for prisoners' basic needs and communicating and resolving any issues faced by prisoners. In addition to such a role, it is important for prison guards to have an active understanding in the implementation of rehabilitation and treatment (See Chapter Six). However, in order for prison guards to be able

to fulfil such an involved role within prisons, it is essential that they undertake the appropriate training. This training would involve conflict management, human rights, and harm reduction techniques.

8.2.7 Provide Strict Guidelines Surrounding Prison Guard Conduct

Various forms of corruption are prevalent within Lebanese prison systems, this can include preferential treatment, as well as allowing drugs and other prohibited items within prison (See Chapter Five). In an attempt to curb these various forms of corruption, it is recommended that a set of guidelines listing prohibited activity as well as their sanctions be provided. In addition to the rules and guidelines, it is important to set up an investigative committee tasked with identifying and punishing corruption. Moreover, it is important that background checks are conducted on all prison guards. As was previously mentioned (See Chapter Five) due to the fact that prisons are run and managed by the ISF, in some instances, prisoners are under the control of the same individuals that tortured them. It is therefore important for background checks in order to ensure officers have no connections to any prisoners, and do not have a history of unethical behaviour.

8.2.7.a Improve Prisoners' Induction Process

Examining prison guards' and prisoners' narratives surrounding the prison entry process, it was clear that there is a lack of a proper induction process (See Chapter Six). It is therefore recommended that a detailed induction process be carried out whereby prisoners are informed of the entry process, their privileges and sanctions as well as general information about the prison. As part of this induction process, prisoners should be informed about search procedures. Appendix Nine provides the United States Ministry of Justice Guidelines surrounding the searching of prisoners. Similar guidelines should be adapted and adopted within all prisons across Lebanon.

8.2.8 Develop Rehabilitation and Treatment Programs For Sex Offenders

Various countries such as the United Kingdom, United States and Canada offer numerous rehabilitation and treatment programs to incarcerated sex offenders. These programs may include psychoanalysis, Cognitive Behavioural Therapy (CBT) and the Sex Offender Treatment Programme (SOTP). Although there has been an on-going debate surrounding the success of such programmes it is important to offer rehabilitation and treatment as most sex offenders are released to re-enter the community (Losel and Schmucker, 2005:117). This study has shown

that there is currently no rehabilitation or treatment of sex offenders within prison, despite the fact that numerous participants believed that programmes would aid in the prevention of recidivism (See Chapter Six).

In addition to the lack of rehabilitation and treatment programs within prisons, there is also a lack in specially trained people to manage and conduct such programs. It is therefore recommended international organisations provide training in rehabilitation and treatment of sex offenders. Once this training is conducted, it is then recommended these specialised people enter Lebanese prisons and offer rehabilitation to sex offenders in a consistent and systematic manner.

It is also important to raise awareness. Chapter Six has highlighted the lack of understanding of rehabilitation and treatment by all participant groups (i.e. police officers, prison guards, judges and lawyers). It is therefore important to ensure that people understand such programs, (i.e. how they function and their goals) as well as the benefits that can arise from implementing them. It may therefore be recommended that a legislation, such as that found in the U.K., mentioned in Chapter Five be passed which re-enforces the need for rehabilitation and treatment.

8.3 Organisation of State

8.3.1. Separate Religion from Law

Various examples surrounding the link between law religion and criminal justice have been presented throughout this study. One such example was the link between the de-criminalisation of marital rape and religion (See Chapter Two). In addition to the de-criminalising of marital rape, religion plays a role when people are imprisoned for the act of 'de-virginising'. Criminalising the act of consented sex and de-criminalising marital rape is violations of a person's right to his/her own body and privacy. It is because of these violations it is recommended that there is a move towards separating law and religion within Lebanon and other countries.

Law should be separate from religion and in turn religion should be separate from sexual morality. Initiating this separation would entail the amending of several of the out-dated Lebanese laws. These laws include the articles criminalising homosexuality and 'de-virginising'

in addition to drafting a law criminalising marital rape is needed. Another law that should be amended is Article 522 that provides a 'loophole' that exempts rapists from a prison sentence (See Chapter Three). Finally, it is recommended that the death penalty be eradicated. Death penalties are still dispensed, although no one has been executed within Lebanon since 2009.

8.3.2 Administer Pre and Post Release Support to Prisoners

Prisoner participants all claimed that they have not received any preparation prior to release from prison. However, it is becoming acknowledged that prison officers should play an active role in preparing a prisoner to leave prison, ensuring that he/she has sufficient:

- Accommodation
- Employment
- Support in drug and alcohol treatment
- Mental health support
- Familial support
- Moral support

It is therefore recommended that prison officers or civilians, (if management is moved to civilians) receive the appropriate training to play an active role in supporting prisoners prior to release.

Upon release, it is important for prisoners to receive support from professionals. It is therefore recommended that support in the form of therapists, as well as 'Circles of Support and Accountability' be provided. There are numerous Circles of Support and Accountability (CoSA) within the U.K. that aim to "minimise alienations, support reintegration and so prevent sexual offending" (The Lucy Faithfull Foundation, n.d.). It is because of the role such circles play in providing support and aiding reintegration, it is recommended that such concepts be adapted and adopted for Lebanon.

8.3.3 The Need For a Functioning Government

Numerous participants throughout this study have highlighted how sex offending, and offenders in general are, according to the government not a priority (See Chapters Five and Six). This is due to the political turmoil within Lebanon, which has resulted in not having a

president and a therefore a void government. This void is due, in part, to the various politicians being unable to agree on suitable presidency candidates. It is recommended that this situation be rectified, as with the aid of a functional government several recommendations can be implemented. One possible way is through offering new candidates and allowing the public to vote for the president. However, there are several barriers to this recommendation which includes: (1) Lebanon's unstable situation (2) religion (3) Lebanon's history which puts politicians in power due to familial ties.

8.4 Human Rights and Civil Liberties

8.4.1 Securing Lawyers

As numerous narratives of participants showed, lawyers are not always present within court. It is therefore essential to monitor when and why some offenders progress through court without a lawyer. It is recommended that closer monitoring is needed to ensure that offenders were provided with the option of obtaining a lawyer. This monitoring may come in form of a committee interviewing offenders at the various stages of the criminal justice system, and providing participants with a form to sign when they refused or were refused the use of a lawyer. This form, or a similar mechanism, is essential in ensuring that participants were provided with the option of obtaining a lawyer.

When people cannot afford lawyers it is recommended that the government provide free legal representation without any discrimination. Lawyers play a vital role, as not only do they ensure suspects are adequately defended but also they can play a vital role in investigating any reports of torture made by their clients against the police.

8.4.2 Increase Offender Privileges

Providing prisoners with privileges provides them with an incentive to abide by the rules of prisons. It is therefore recommended that such privileges be tailored and provided to prisoners within Lebanese prisons.

8.5 Other Recommendations

8.5.1 Improve Media Coverage

It is important to keep in mind that the media plays a big role in constructing the public's attitudes and beliefs towards crime, criminal justice and criminal justice policies (See Chapter One). Therefore, the media's tabloid representation of crime increases the public's fear of crime and in return aids in developing moral panics (See Chapter One). It is for these reasons that it is important that the media resorts to expert opinion surrounding crime and actual crime rates. This will ensure that the public is kept informed about crime trends, policies and criminal justice while at the same time reducing the likelihood of unwarrantable fear.

8.5.2 Increase Trust In The Criminal Justice System

There is a general lack of trust in the Lebanese criminal justice system. This lack of trust was highlighted throughout Chapter Two when examples such as the case of Myriam Achkar were provided. Chapter One has highlighted how this lack of trust in criminal justice systems results in more punitive measures, as the public demands harsher punishments of offenders.

Increasing the public's trust in the criminal justice system will ensure that a country is less punitive as there will be less pressure on the criminal justice system to harshen any criminal justice policies. Trust in the criminal justice can be restored in several ways such as:

- The reporting of successful policies that have resulted in crime reduction.
- Taking victim reports and statements seriously, and treating victims as well as suspects with respect.
- Reduce tolerance for police violence.
- Make information about policing, law, and other criminal justice aspects readily available to the public.
- Better relations between the police and the community.
- Enhancing public input.
- Conducting regular public surveys concerning the public's opinion of the criminal justice system.
- Ensuring the media uses experts rather than taking a tabloid route to crime reporting.

Conclusion

This study has acted as a stepping-stone into a previously unexamined field. It has provided a background to the situation within Lebanon and the trajectory of sex offenders throughout the

Lebanese criminal justice system. However, this is just a stepping stone, it is with further research and the fulfilment of the recommendations that Lebanon can truly be more humanitarian (i.e. improve its human rights) and be less punitive.

This chapter has put forward numerous recommendations for the improvement of the criminal justice system. These recommendations include:

- Increasing training and specialisations of criminal justice agents
- Introducing technology within the criminal justice system
- Improving working conditions
- Building more prisons
- Increase Salaries
- Increase equipment
- Increase monitoring of procedures, prisons and detention centres
- Creating a code of conduct for judges
- Creating a detailed sentencing guideline
- Creating a detailed guideline for prison guard conduct
- Develop rehabilitation and treatment for sex offenders
- Separating religion from criminal justice
- The need for a functioning government
- Securing lawyers for all suspects
- Increasing offender privileges
- Increasing the public's faith in the Lebanese criminal justice system

Some of these recommendations can be applied to countries that, like Lebanon, suffer from torture and other human rights violations, as well as countries where religion and criminal justice are intertwined. Moreover, several of these recommendations are interlinked and therefore if one recommendation is carried out numerous others will fall in place. For example, reducing the overcrowding of prisons by building new prisons will improve prison conditions as well as the amount of control prison guards have within prisons. It will also allow for successful implementation of rehabilitation and treatment programs.

These recommendations were provided in order to aid in the upholding and implementation of human rights, improve prison conditions and legislation and in turn to help move Lebanon from being a punitive country to one that focuses on the rehabilitation and reintegration of offenders.

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Appendices

Appendix One: 'Child Sexual Abuse' by Usta et al.

Table 1: Prevalence of child abuse and frequency of occurrence according to different types of child sexual abuse.

Variable	Number (percentage)
<u>Sexual Abuse Attempts</u>	Total: 89 (8.7%)
Child kissed or hugged against their will	66 (6.4%)
Child forced to expose their private parts	27 (2.6%)
Child forced to touch private parts of perpetrator	24 (2.3%)
Child forced to have sex against their will	10 (1.0%)
<u>Sexual Abuse Through Information Communication Technology (ICT)</u>	Total: 50 (4.9%)
Movies or pictures in magazines	39 (3.8%)
Internet	32 (3.1%)
<u>Sexual Abuse Actions</u>	Total: 128 (12.5%)
Child touched against their will	86 (8.4%)
Child kissed or hugged against their will	50 (4.9%)
Various parts of child's body kissed against their will	21 (2.0%)
Perpetrator exposed his/her private part	41 (4.0%)
Touched child's private parts against their will	34 (3.3%)
Child forced to touch perpetrator's private	20 (2.0%)

parts	
Child forced to sit on the lap of perpetrator and fondled against their will	26 (2.5%)
Child forced to sit on lap of perpetrator for pleasure	14 (1.4%)
Child forced to have sex	6 (0.6%)
Perpetrator took pictures or movies of child alone or having sex with others.	5 (5.0%)

(Usta, Mahfoud, Abi Chahine and Anani, 2007: 35)

Appendix Two: Ministry of Justice Statistics

Table 1: Numbers resulting from primary investigation of juveniles in Lebanon

2006

<u>Type of Accusation/Crime</u>	<u>Number of Juveniles Victimized</u>	<u>Number of Juveniles Accused</u>
Rape and Sexual Assault	54	18
Indecent Act	4	25
Kidnapping*	11	14
Prostitution	0	18
Other**	87	1,117

2007

<u>Type of Accusation/Crime</u>	<u>Number of Juveniles Victimized</u>	<u>Number of Juveniles Accused</u>
Rape and Sexual Assault	56	19
Indecent Act	20	25
Kidnapping*	15	11
Prostitution	1	12
Other**	132	1,194

2008

<u>Type of Accusation/Crime</u>	<u>Number of Juveniles Victimized</u>	<u>Number of Juveniles Accused</u>
Rape and Sexual Assault	44	14
Indecent Act	23	18
Kidnapping*	9	10
Prostitution	0	9

Other**	154	1,188
---------	-----	-------

2009

<u>Type of Accusation/Crime</u>	<u>Number of Juveniles Victimized</u>	<u>Number of Juveniles Accused</u>
Rape and Sexual Assault	28	11
Indecent Act	36	25
Kidnapping*	13	9
Prostitution	0	17
Other**	157	1,223

2010

<u>Type of Accusation/Crime</u>	<u>Number of Juveniles Victimized</u>	<u>Number of Juveniles Accused</u>
Rape and Sexual Assault	37	18
Indecent Act	41	51
Kidnapping	24	12
Prostitution	1	33
Other**	135	1,762

*Kidnapping is included as it is possible that kidnapping has occurred for sexual exploitation and/or trafficking.

**Other includes: Theft, Assault and Battery, Property Crime, Possession of a Weapon, Drugs, Violations, Brawl, Smuggling, Endangerment, Bribing, Threatening, Fraud, Defamation and Slander, Murder, Lack of Identification Papers,

Appendix Three: Lebanese Penal Law Sex Offences Articles

Article 487 Adultery

Women accused of violating Article 487 can be imprisoned for a period ranging between three months to two years, along with the adulterer. If the adulterer is single then the sentence is lessened to a period ranging between one month and one year.

Article 490 Incest

Incestuous relationships between immediate and extended family members is punishable by a year to three years imprisonment.

Articles 503-506 Rape

Article 504 covers the rape of vulnerable people who cannot consent.

Article 503 states: “anyone who, through the use of violence and/or threats, violates a person **other** than his wife is punished with hard labour for a period of no less than five years”. If the victim is under fifteen years the punishment is amplified to a minimum of seven years.

Article 522 claims: if the perpetrator proposes to marry the victim, then all charges against him/her will be dropped. However, this will only occur if the marriage has lasted more than three years. If the marriage dissolved before the three-year time frame then the case can be re-opened and the perpetrator subjected to imprisonment.

Article 506 criminalises the gathering of juveniles between the ages of fifteen and eighteen by an adult (despite whether they are legitimate or illegitimate children). The punishment for such acts is temporary hard labour. Article 506 further criminalizes the use of power roles for the purpose of sexual abuse. It criminalizes a person in power, such as a religious figure or an employer, who has sexual relationships with minors or forces them to undertake in illegal or immoral acts. The perpetrators receive a sentence of hard labour for no less than four years. If the victim is under fifteen years of age, the sentenced is increased to six years temporary hard labour.

Articles 507-510 ‘Indecent Acts’

Article 507 criminalizes those who use violence or threats to commit an indecent act. Punishment for such violations includes hard labour for no less than four years. This punishment is increased to six years if the victim is less than fifteen years old.

Article 508, criminalizes the use of trickery to get someone to commit indecent or immoral acts. Perpetrators are sentenced to temporary hard labour for ten years.

Article 509 relates to indecent or immoral acts committed against juveniles under the age of fifteen. The punishment for such acts is four years of hard labour; unless the victim is under the age of eighteen then it will include four years of imprisonment. The Lebanese Penal Code fails to define what is meant by the terms 'indecent' and 'morality'. It is therefore up to interpretation according to Lebanese culture and can include any acts such as streaking and indecent exposure.

Article 512 Sexual Assault

The punishment for sexual assault includes incarceration for a period of no less than twelve years if the victim is injured or catches a disease or illness²⁶ from the perpetrators. The punishment of 12 years incarceration is further extended to perpetrators who have taken the girls virginity or when/if the sexual act results in death.

Article 513 Sexual Assault in the Workplace

Article 515 Kidnapping for Sexual Assault

If a person is kidnapped using trickery or violence for the purpose of sexual assault, the perpetrator receives temporary hard labour despite the gender of the victim. If the sexual assault took place, then the perpetrator would receive a prison term of seven years.

Article 516 Kidnapping of Juveniles Without the Use of Trickery or Violence

The sentence involves a seven-year prison sentence.

²⁶ Illnesses include syphilis or a disability that lasts more than 10 days

Article 518 “De-Virginising”

Under this article taking a person’s virginity under the false pretence of marriage is criminalised. Punishments under this article include imprisonment for six months and a fine of 100,000 Lebanese Lira (40 pounds). This does not constitute rape, as the victim might have consented; however it is still a sex offence.

Article 512 Transgender/Transsexual

This Article criminalizes cross dressers and men who enter a designated female place. Such acts are punishable by a period of six months in prison. This law makes it problematic for transgendered people who identify themselves as women.

Article 534 “Acts Against Nature”

This article is used to criminalize lesbian, gay, bisexual and transgendered people. Unnatural intercourse is punishable with a prison sentence for a period ranging up to one year.

Chapter Two of the Lebanese Penal Code

Articles 525 Prostitution

Those under the age of twenty-one who force people into prostitution or use prostitution to pay off debts are imprisoned for a period ranging between two months to two years and fined between 50,000 -500,000 Lebanese Lira (20-200 pounds).

Article 526 Forced Prostitution Through Trickery

Anyone who uses mind tricks to force the public into prostitution or unethical acts is risks imprisonment between 1 month to 1 year and a fine ranging between 20,000-200,000 Lebanese Lira (8-80 pounds).

Article 527 Pimping

Results in imprisonment for a period ranging between 6 months to 2 years and a fine (20,000-200,000 Lebanese Lira (8-80 pounds)).

Article 531 “Immoral Acts”

Immoral acts are punishable with a prison sentence ranging from 1 month to 1 year.

Lebanese Penal Code Law No. 164

Article 576 Defining Trafficking

- (1) A victim of trafficking is any person who has been used for the purposes of:
 - (a) any act that is punishable by law
 - (b) prostitution
 - (c) sexual exploitation
 - (d) begging
 - (e) slavery or practices similar to slavery
 - (f) forced or compulsory labour
 - (g) the recruitment of children for their forced or compulsory use in an armed conflict
 - (h) forcing them to get involved in terrorist acts and;
 - (i) taking organs or tissues from the body of the victims.

- (2) Sentences surrounding human trafficking range from:
 - (a) imprisonment for five years, along with a fine of a hundred to two hundred the official minimum wage
 - (b) imprisonment for a period of seven years, along with a fine of one hundred fifty to three hundred the official minimum wage if threats, trickery, violence was used on the victim or their families.

It is important to note, however, those punishments further vary according to the circumstances of the perpetrator and the injuries caused to the victims. For example, if the perpetrator were in a position of power then he/she would be imprisoned for ten years and fined a hundred to four hundred times the official minimum wage.

Appendix Four: Public Questionnaire

Research Project Fact Sheet and Introduction

This study will examine:

- Community attitudes towards and knowledge of sexual offending
- Community attitudes towards the criminal justice system in relation to sexual offending

How this study will be conducted?

- The same questionnaire will be distributed to various participants ranging in age groups.

What will happen if I agree to participate?

- You will remain anonymous and responses given will be treated with strict confidentiality
- The data gathered will be used towards my PhD. Thesis
- There may be wider publication of the findings such as the write up of results for journal publications and presentation at research conferences.

PLEASE NOTE

This questionnaire will deal with issues of sensitive nature. You can stop at any stage and withdraw from the research if you wish. All responses will be treated confidentially and you are not required to give your name. If you have any enquiries or complaints do not hesitate to contact my supervisor Dr. Martyn Chamberlain

J.M.Chamberlain@lboro.ac.uk.

Section 1: Basic Information

Please tick the boxes

1.1 Gender

- Male
- Female

1.2 Age

- 18-30
- 30-40
- 40-50
- 50 or over

1.3 Nationality

.....

1.4 Occupation type

- Profession
- Unemployed
- Retired
- Student

Section 2: Knowledge of Sexual Offences

2.1 Do you know what a sex offence is?

- Yes No

2.2 Can you briefly define a sex offence in your own words?

.....
.....
.....
.....

2.3 Are you aware of the legal definitions of sex offenders in Lebanon?

- Yes No

2.4 Are you aware of the punishments which can be provided for sex offenders?

- Yes No

2.5 Is sex offending gender specific to either male or female?

- Yes No

2.6 Is sex offending specific to age groups?

- Yes No

2.7 There are no female sex offenders within Lebanon because

- woman cannot over power men and commit rape and other sex offences
 woman cannot rape or commit other sex offences
 because of the role of woman within Lebanon
 because of the culture
 there ARE female sex offenders within Lebanon
 Other

2.8 Prostitution is a sex offence and therefore should result in imprisonment

- Strongly Agree Agree Neither Agree nor Disagree
 Disagree Strongly Disagree

Please state your reasons.....

2.9 Homosexuality is a sex offence and therefore should result in imprisonment

- Strongly Agree Agree Neither Agree nor Disagree
 Disagree Strongly Disagree

Please state your reasons.....

2.10 Marital rape is a sex offence and therefore should result in imprisonment

- Strongly Agree Agree Neither Agree nor Disagree
 Disagree Strongly Disagree

Please state your reasons.....

2.11 Repeat sex offenders are a problem within Lebanon

- Strongly Agree Agree Neither Agree nor Disagree
 Disagree Strongly Disagree

2.12 What is rehabilitation and treatment?

- Follow up by Physicians and taking prescribed medications
 Follow up by Psychologists
 Follow up by Psychiatrists
 Undergoing programs that focus on changing the attitudes and perceptions of offenders (for e.g. cognitive behavioural therapy)

Section 3: Opinions towards the Criminal Justice System

3.1 If someone you know was a victim of a sex offence would you report it?

- Yes No Why.....

3.2 Would you feel comfortable reporting a sex offence?

- Yes No Don't know Why.....

3.3 I don't have much confidence in the police when dealing with such matters

- Strongly Agree Agree Neither Agree nor Disagree
 Disagree Strongly Disagree

3.4 The police are well equipped to handle sex offence cases

- Strongly Agree Agree Neither Agree or disagree
 Disagree Strongly Disagree

3.5 Police uphold human rights

- Strongly Agree Agree Neither Agree nor Disagree
 Disagree Strongly Disagree

3.6 Police officers are responsible for:

- Security
 Management of prisons
 Rehabilitation and Treatment
 Offender Management within Society

3.7 Corruption does not play a role within the police

- Strongly Agree Agree Neither Agree nor Disagree
 Disagree Strongly Disagree

3.8 The law adequately defines sex offences

- Strongly Agree Agree Neither Agree nor Disagree
 Disagree Strongly Disagree

3.9 Do you think sex offences result in convictions by the court

- Yes No Don't know Why.....

3.10 The courts are lenient on people who commit sexual offences

- Strongly agree Agree Neither agree nor disagree Disagree
 Strongly disagree Don't know

3.11 The courts are too harsh on people who commit sexual offences

- Strongly agree Agree Neither agree nor disagree Disagree
 Strongly disagree Don't know

3.12 Judges and Lawyer are well trained and educated to deal with sex offenders

- Strongly Agree Agree Neither Agree nor Disagree
 Disagree Strongly Disagree

3.13 Politics does not play a role within Lebanese courts in relation to sentencing sex offences

- Strongly Agree Agree Neither Agree nor disagree
 Disagree Strongly Disagree

3.14 Religion does not play a role within Lebanese courts in relation to sentencing sex offences

- Strongly Agree Agree Neither Agree nor disagree
 Disagree Strongly Disagree

3.15 Culture does not play a role within Lebanese courts in relation to sentencing sex offences

- Strongly Agree Agree Neither Agree nor Disagree
 Disagree Strongly Disagree

3.16 Within Lebanon all persons are equal before the law and are entitled without any discrimination to the protection of the law; this includes discrimination according to sex, race, nationality and so forth.

- Strongly Agree Agree Neither Agree nor Disagree
 Disagree Strongly Disagree

3.17 In Lebanon everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law

- Strongly Agree Agree Neither Agree nor Disagree
 Disagree Strongly Disagree

3.18 Corruption does not play a role within the courts

- Strongly Agree Agree Neither Agree nor Disagree
 Disagree Strongly Disagree

3.19 The legal system does not take into account the safety of the community prior to releasing a sex offender

- Strongly Agree Agree Neither agree nor disagree
 Disagree Don't know

3.20 Lebanon has the capabilities of implementing new concepts in relation to dealing with sex offenders. Such as risk assessments, and sex offender registers

- Yes No

Why.....
.....
.....
.....

Section 4: Opinions towards sex offenders

4.1 A person found guilty of a serious sexual offence should always be imprisoned

- Strongly agree Agree Neither agree nor disagree
 Disagree Strongly disagree Don't know

4.2 If I was living near a sex offender I should be informed of their past offence

- Strongly Agree Agree Neither Agree nor Disagree
 Disagree Don't know

4.3 My local council should have the power to prevent released sex offenders being brought into my local community

- Strongly Agree Agree Neither Agree nor Disagree
 Disagree Don't know

4.4 The government should do something to prevent released sex offenders being able to take up employment

- Strongly Agree Agree Neither Agree nor Disagree
 Disagree Don't know

4.5 Most people who have committed a sexual offence in the past can go on to live law abiding lives

- Strongly Agree Agree Neither Agree nor Disagree
 Disagree Don't know

4.6 Sex offenders who are released into the community should always be monitored

- Strongly Agree Agree Neither agree nor disagree
 Disagree Don't know

4.7 Society has an obligation to assist sex offenders released into the community to live a law abiding lives (including supporting them towards education, training and medical treatment)

- Strongly Agree Agree Neither agree nor disagree
 Disagree Don't know

4.8 Where do you think sex offenders released from prison should be housed?

- In a separate location, such as a hostel with other sex offenders?
 In the community, where people around them are informed of their offences
 In the community, but not mine
 In any community
 Somewhere else

Please use the space below to state where you think they should be housed if none of the above reflect your opinion

4.9 What should the objective of imprisoning a sex offender be?

You can tick more than one

- Containment of risk
 Punishment
 Retribution
 Protection of the public
 Rehabilitation
 Deterrence
 Treatment of psychological illness
 Treatment of physical illness

4.10 Sex offenders should be subjected to electronic tagging whereby people have their movement restricted to certain areas

- Strongly Agree Agree Neither Agree nor Disagree
 Disagree Strongly Disagree

4.11 Sex offenders should be subjected to curfew orders which require them to be at home within certain hours of the day

- Strongly Agree Agree Neither Agree nor Disagree
 Disagree Strongly Disagree

4.12 Sex offenders should be subjected to sex offender register which details their address, jobs, name and photograph and includes requirements to report change of address to police

- Strongly Agree Agree Neither Agree nor Disagree
 Disagree Strongly Disagree

4.13 Human Rights should be upheld for all sex offenders

- Strongly Agree Agree Neither Agree nor Disagree
 Disagree Strongly Disagree

4.14 Rehabilitation and treatment will allow an offender to live a normal, law abiding life

- Strongly Agree Agree Neither Agree nor Disagree
 Disagree Strongly Disagree

4.15 Repeat sex offenders should be:

- Kept in prison
 Receive the death sentence
 Put in a long term rehabilitation and treatment center
 Put in a specific residential areas
Other

4.16 Risk Assessments used to try and predict sex offender recidivism such as when profiling is used should be implemented in Lebanon before a sex offender is released from prison

- Strongly Agree Agree Neither Agree nor Disagree
 Disagree Strongly Disagree

4.17 Torture should be used when dealing with sex offenders

- Strongly Agree Agree Neither Agree nor Disagree
 Disagree Strongly Disagree

4.18 Sex offenders should receive the death penalty

- Yes No Depends on type of sex offence Don't know

Appendix Five: AJEM's Psychological Evaluation

Date:.....

Information:

First name and Family name:

Nationality:

Age:

Number of brothers:

Number of sisters:

Position among brothers and sisters:

Education: Can't read and write Can read and write Primary Complementary
 Secondary Technical University Quick Professional Training

Profession:

Civil Status: Single Married Divorced Separated Polygamous Engaged

If Married: Number of children:

Age of Children: minimum: maximum:

Personal History:

Familial psychiatric history: Father: Mother:

Brother: Sister: Other member of
 family:.....

Personal psychiatric history:

Personal health history:

Current health:

Crime:

Crime description:

Judicial status: Awaiting Trial Sentenced Awaiting Trial and Sentenced

Number of incarcerations: Same Crime Different Crime

Length of time in prison:

Family Events:

Deceased Divorced Separated Rejected

Adolescent Phase: School Failure Emotional Failure Addiction Eating Disorders
 Other.....

Workplace: Instability Unemployment Accidents at work

Relation parent/enfant:

	Father	Mother	Other family members	Remarks (other authoritative figures in the family)
RAS				
Authorative				
Democratic				
Permissive				
Disengaged				

Over-protective				
Abusive				
Deaths (at what age of the child)				

Divorce or Separation:

Age of the child:

Father Re-married Mother Re-married Step Children from Father Step Children from Mother

Other Guardians in charge:

Patient's Presentation

Psychomotor: Mimics Agitated Mannerism Psychomotor Retardation Observations.....

Mood and affect: Apathetic Euphoric Sad Aggressive Ambivalent Distrust Reluctant Emotional Blunting Scared Emotional Liability

Suicidal Thoughts

Suicidal Attempts: Number: Methods:

Anxiety Problems: Phobia TP (Panic) OCD PTSD TAG ESA (General Anxiety) ESC (Chronic Anxiety)

Trouble Sleeping: Insomnia Interrupted Sleep Early Waking Hypersomneia Clinophilie (always in bed)

Eating Disorders: Anorexia Bulimia Chronic Vomiting Potomania (drinks a lot of water)

Lack of Appetite

Addictions: Tobacco Alcohol Medication Drugs

Addiction History:

Drugs Consumed in Prison:

Pathological Sexual Conduct: Continuous Masturbation Exhibitionism Pedophilia

Bizarre Behaviour: Vandalism Fugitive (running away) Collects Rubbish Collects Objects

Linguistic Problems: Voice Tremble Short Sentences Logorrhea Stuttering Talks to himself

Makes up Words Repeats Himself Mute

Troubles with Thoughts: Loosing Track of Ideas Unconnected Ideas Changes Topics Frequently

Suddenly Stops Discordance Mental Automatism

Delusions: Persecution Grandeur Reference Mystical Jealousy Somatic Non Specific

Perception Troubles: Auditory Hallucinations Visual Hallucinations Tactile Hallucinations

- Olfactory Hallucinations Depersonalization Body Dysmorphia De-realization
- Disorientation
- Factitious Disorders
- Somatoforms Disorders
- Trouble Adapting
- Troubles Controlling Impulses:** Kleptomania Pyromania Disorders of Sexual Identity
- Auto mutilation, number, Type of Auto mutilation.....
- Factors Provoking the Mutilation.....
- Goal of Mutilation.....
- Amnestic Disorders:** Transient (short term) Chronic (long term) Difficulties Concentrating
- Current Pathological Episodes:**.....
- Start.....
- Trigger.....
- Hospitalization.....
- Treatment.....

Life in Prison

Torture: Yes No

History of Torture:

Observations:

Referral: Medical..... Social Judicial Psychological Care
 Group Therapy

Name of interviewer.....

Block: A B C D; other.....

Appendix Six: Participation Information Sheet

Study Title:

The trajectory of sex offenders through the Lebanese criminal justice system

Invitation Paragraph

You are being invited to take part in a research study. Before you decide, it is important for you to understand why the research is being done and what it will involve. Please take time to read the following information carefully. Take time to decide whether or not you wish to take part. Please feel free to contact the research team if there is anything that is not clear or if you would like more information.

Thank you for reading this,

Shereen Sarah Baz
Principle Investigator

Dr. Martyn Chamberlain
Supervisor

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What is the purpose of the study?

This study will examine the care and treatment of sex offenders within the Lebanese criminal justice system and how this treatment may prevent or promote reoffending.

Who is doing this research and why?

I, Shereen Baz, will be doing the research under the direct supervision of Dr. Martyn Chamberlain. This is an independent project undertaken for my PhD.

Are there any exclusion criteria?

If you do not deal with sex offenders, or have not had any contact with them.

Once I take part, can I change my mind?

Yes, after you have read this information and asked any question you may have I will ask you to complete an Informed Consent Form. But if at any time, before, during or after the sessions you wish to withdraw from the study please just let me know. You can withdraw at any time, for any reason and you will not be asked to explain your reasons for withdrawing.

How long will it take?

Each interview will take around 45 minutes to complete.

What personal information will be required from me?

Detailed information on topics surrounding your education and work experience, your experiences within the criminal justice system, the way you deal with sex offenders, and finally your opinions surrounding the care and treatment of sex offenders.

Are there any risks in participating?

No, everything you will tell me will remain confidential throughout the research and even when published you will remain anonymous so no one can identify you.

Will my taking part in this study be kept confidential?

Yes, you will remain anonymous and fake names will be used throughout the whole research. Moreover, all data collected will remain in a locked and secure place. The information will not be kept for more than 6 years.

What will happen to the results of the study?

The results will be published as part of my PhD. However, sponsors who provided me with access will also get a report on any findings.

What do I get for participating?

Although you personally may not receive any direct benefits from participating, your participation will help develop the care and treatment of accused sex offenders within the Lebanese criminal justice system. I will also give you an opportunity to review the

transcripts and I will happily provide you with a report of my findings, with a note of your assigned pseudonym if you so wish.

I have some more questions who should I contact?

You should ask that I be contacted and I will then arrange another meeting as soon as possible.

What if I am not happy with how the research was conducted?

Then please contact my supervisor Dr. Martyn Chamberlain.

Dr. Martyn Chamberlain

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Or visit:

[www.lboro.ac.uk/admin/committees/ethical/Whistleblowing\(2\).htm](http://www.lboro.ac.uk/admin/committees/ethical/Whistleblowing(2).htm)

Thank you for your interest in this research.

Appendix Seven: Researcher Risk Assessment

	LOUGHBOROUGH UNIVERSITY DEPARTMENT OF SOCIAL SCIENCES	FIELDWORK RISK ASSESSMENT FOR RESIDENTIAL & NON-RESIDENTIAL POSTGRADUATE STUDENT (PHD) PROJECT FIELD WORK
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PROJECT TITLE	The Trajectory of Sex Offenders Through the Lebanese Criminal Justice System: An Examination into Punitiveness and Human Rights Violations		
LIST OF PARTICIPANTS	Miss Shereen Sarah Baz Dr. Martyn Chamberlain	FIRST AIDERS	N/A
DATE(S)	1/10/2012-1/07/2013	LOCATION	Lebanon
Mobile Phone Numbers	Miss Shereen Sarah Baz: 07857427323 (UK) 0096171642616 (Lebanon) Dr. Martyn Chamberlain 07734886285	IF OUTSIDE UK, DOES LOCATION COMPLY WITH UK FOREIGN & COMMONWEALTH OFFICE GUIDANCE?	Yes

DISSEMINATION OF INFORMATION		
HAVE ALL MATTERS RELATING TO HEALTH AND SAFETY BEEN CONSIDERED	Yes	
HAS A WRITTEN STATEMENT OF A SAFE SYSTEM OF WORK BEEN COMPLIED?	Yes	
HAS A WRITTEN STATEMENT OF A SAFE SYSTEM OF WORK BEEN ATTACHED?	Yes	
HAS THE SAFE SYSTEM OF WORK BEEN COMMUNICATED TO ALL THE PARTICIPANTS?	Yes	
HAS THIS BEEN ACHIEVED BY: DOCUMENTATION VERBALLY OTHER (SPECIFY)	Yes	No No

IDENTIFICATION OF RISK AND MEASURES TAKEN TO REDUCE RISK

RISKS IDENTIFIED	ACTION THAT HAS OR WILL BE TAKEN TO CONTROL OR REDUCE RISK	RISK RATING (low, medium, high)
1. General Health		
1.1 Illness/accident requiring medical attention or respite	<p>Since I have lived in Lebanon most of my life and my family still reside in Lebanon, my family will be my primary people who would know in case of illness, accident or emergency.</p> <p>In such an event my supervisors will be notified by email or phone as soon as reasonable possible, either by myself or my family.</p> <p>It is hoped that medical costs will be covered by Loughborough University insurance. However, if this is not the case I already have a private insurance policy in Lebanon.</p> <p>No specific vaccines are required for Lebanon.</p>	Medium
2. General Environment	<p>The fieldwork will be carried out in one of Lebanon's male prison in Roumieh, as well as the woman's prison, and the offices of the police officers, lawyers and judges in Beirut.</p> <p>Having lived in Lebanon for most of my life I am familiar with the region and culture. This knowledge will help in assessing general risks, including travelling to or interacting with locals.</p>	
2.1 Travel	The UK Foreign & Commonwealth Office (FCO) current advises against all but essential travel to the city of Tripoli, they continue to advice against all travel to Palestinian refugee camps, and	Low

	<p>against all but essential travel within 5km of the Syrian border, to the Bekaa Valley and to areas south of the Litani river.</p> <p>This advice will not bear any affect on my study as none of my study will be carried out in any of the places mentioned above.</p> <p>However, close attention will be kept on the overall situation over the course of the fieldwork period with regards to travel.</p>	
2.2 Terrorism	<p>The FCO advises “there is a general threat from terrorism. Attacks could be indiscriminate, including in places frequented by expatriates and foreign travellers such as hotels and restaurants. Previous terrorist attacks have taken various forms including vehicle bombs, hand grenades and small improvised bombs. There is a risk that Western and British interests may be targeted as well as areas where large numbers of people congregate. You are advised to maintain a high level of vigilance in public places, including tourist sites”.</p> <p>Although terrorist attacks are highly unlikely, due to this advice I will ensure that the rental car I use will come from a trusted and well reputable car rental place. I will avoid places where a large number of people congregate (especially tourists), and I will maintain a high level of vigilance.</p>	Low
2.3 Cultural sensitivity	<p>Lebanon as a country has a diverse ethnic, religious and socio-political make-up which results in a heavily divided country. Therefore there is a possibility to offend people due to lack of sensitivity and due to the sensitive divide and strong political and religious affiliations.</p> <p>I am very familiar with how Lebanon is divided, of the different religious, ethnic and socio-political parties therefore I am aware of</p>	Low

	how to sensitively be able to deal with these circumstances if one should arise.	
3. Demonstrations & Protests & Physical attacks		
3.1 Demonstrations & Protests	<p>Recently, there have been numerous protests and demonstrations occurring within Lebanon which have involved the burning of tires and sometimes have even led to violence. However these road blocks have been confined to certain areas. I will therefore avoid these areas of unrest, and if under some circumstance I see a road block ahead I will always ensure that I avoid it and leave the area as soon as possible. I will always stay tuned to the news and ensure that I am updated with the current situation.</p>	Medium
3.2 Physical attack	<p>Although throughout the year I had worked within the prison in Lebanon I have never been in a circumstance where I have been physically attacked. I will ensure that I take certain precautions both within and outside of the prison. These precautions include:</p> <ul style="list-style-type: none"> • I will move away from situations which seem to be turning violent. • I will always ensure that I undertake my PhD with the upmost sensitivity. • I will always ensure that I have a guardian within the prison as well as when interviewing judges, lawyers, police officers and prison guards. 	Low
4. One-to-one	My fieldwork will require the researcher to carry out one-on-one interviews.	

Interviews		
4.1 Intimidation, threats or attack	<p>Scheduled interviews will be carried out in both the prison as well of the offices of the other participants. Interviews will not be carried out within prison cells or in houses. I will always have another person with me in case I need any form of assistance, and the NGO organisation (Association of Justice and Mercy) will know my whereabouts at all times when conducting interviews.</p> <p>If at any point, I should have any doubts about my safety I will excuse myself out of the room and inform the appropriate people. The researchers private contact details will not be given out. All interviews will be carried out professionally and with extreme sensitivity. My prior work within the prison, along with my training course on interviewing sex offenders will assist in ensuring my sensitivity and that I remain professional.</p>	Low
5. Stress or anxiety arising from long term fieldwork	<p>My primary source of relief will be my family, and my friends. However, no personal details will be given of the interviewee. Weekly contact with my supervisor will be carried out as well as numerous 'check-in' emails. I will approach my supervisor if I am beginning to suffer from any stress or anxiety. If my supervisor does not receive a check-in email he will then be able to contact me on my Lebanese mobile number and/or a family member (i.e. father) if need be. Moreover, my supervisor and I will remain in contact and carry out meetings via skype.</p>	Medium
6. Informant Safety	<p>In order to ensure the safety of my participants I will ensure that I will not place any of them at risk by revealing their identity or causing any stress to them. I will ensure</p>	Low

	that they are all provided with pseudonyms, ensure that interviews are conducted sensitively; ensure that they are aware to withdraw from the study at any point in time if they wish to do so.	
Signature (supervisor)		
Signature		

Appendix Eight: United States Ministry of Justice Guidelines for the Searching of Prisoners, 2011- 2015.

Full Search – Male Prisoner, Staff or Visitor

OFFICER 1	OFFICER 2
<i>The officer in charge of the search. He is responsible for controlling the search. He will normally observe the subject from the front.</i>	<i>Responsible for receiving clothing and other items from the subject and searching them. He must return the clothing and other items back to the subject at the direction of Officer 1. Observes the prisoner throughout the search, normally from back or side. Remains vigilant to potential risks and remains alert throughout the search.</i>
Ask the subject if he has anything on him he is not authorised to have. Ask him to empty his pockets and remove any jewellery, including wristwatch, and hand over any bags or other items being carried.	Search the contents of the pockets and the jewellery and place them to one side. Search any bags or other items.
Ask him to remove any headgear and pass it to Officer 2 for searching.	Search headgear.
Search his head either by running your fingers through his hair and around the back of his ears, or ask him to shake out his hair and run his fingers through it.	
Look around and inside his ears, nose and mouth. You may ask him to raise his tongue so that you can look under it.	
Ask him to remove the clothing from the top half of his body and pass it to Officer 2.	Search the clothing.
Ask him to hold his arms up and turn around whilst you observe his upper body. Check his hands.	Return the clothing.
Allow him time to put on clothing.	
Ask him to remove his shoes and socks and pass to Officer 2.	Search the shoes and socks and then place them to one side.
Ask him to lift each foot so the soles can be checked.	
Ask him to remove his trousers and underpants	Search trousers and underpants and place

and pass to Officer 2.	to one side.
Once the clothing has been searched ask him to raise the upper body clothing to his waist. Observe the lower half of his body. <i>He must stand with his legs apart while the lower half of his body is observed.</i>	
Look at the area around him for anything he may have dropped before or during the search.	
Ask him to step to one side to ensure he is not standing on anything he has dropped before or during the search.	Return the clothing, unless search is to continue.
Most searches will end here. However, if a closer inspection of the anal or, exceptionally, the genital area is justified (see guidance below) advise him of this and ask him to bend over or squat, and, if there is still doubt that nothing is concealed ask the prisoner to lift his genitals and/or pull back his foreskin. <u>Only adult prisoners may be asked to lift his genitals and/or pull back his foreskin.</u>	Use mirrors to view these areas better.
Look again at the area around him for anything he may have dropped before or during this additional procedure.	
Ask him to step to one side to ensure he is not standing on anything he has dropped before or during this additional procedure.	Return the clothing.
Allow him time to put on his clothing.	

Full Search – Female Prisoner

The procedure for searching women prisoners is different to that used to search men and women visitors and staff (see Full Searching of Women Prisoners) and consists of two levels. Level 1 involves the removal of the woman’s clothing apart from her underwear; level 2 involves the removal of all of the woman’s clothing including her underwear. Level 2 of the search may only be applied if there is intelligence or suspicion that the woman has concealed an item in her underwear or if illicit items have been discovered about the woman’s person during level 1 of the search.

OFFICER 1	OFFICER 2
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<p><i>The officer in charge of the search. She is responsible for controlling the search. She will normally observe the subject from the front. She should explain the need for the search and each step, taking into account any cultural or religious sensitivity.</i></p>	<p><i>Responsible for receiving clothing and other items from the subject and searching them. She must return the clothing and other items back to the subject at the direction of Officer 1. Observes the prisoner throughout the search, normally from back or side. Remains vigilant to potential risks and remains alert throughout the search.</i></p>
<p>LEVEL 1</p>	
<p>Ask the subject if she has anything on her she is not authorised to have. Ask her to empty her pockets and remove any jewellery, including wristwatch, and hand over any bags or other items being carried.</p>	<p>Search the contents of the pockets and the jewellery and place them to one side. Search any bags or other items. Scan her body slowly with a metal detector (wand).</p>
<p>Ask her to remove any headgear and pass it to Officer 2 for searching.</p>	<p>Search headgear.</p>
<p>Search her head either by running your fingers through her hair and around the back of her ears, or ask her to shake out her hair and run her fingers through it.</p>	
<p>Look around and inside her ears, nose and mouth. You may ask her to raise her tongue so that you can look under it.</p>	
<p>Ask her to remove the clothing from the top half of her body except for her bra and pass it to Officer 2.</p>	<p>Search the clothing. If she is not wearing a bra, continue the search. Offer a towel, new bra or crop top to put on if she wishes one. Particular sensitivity should be shown if the woman is wearing a mastectomy bra.</p>
<p>Ask her to hold her arms up and turn around whilst you observe her upper body. Check her hands.</p>	<p>Return the clothing.</p>
<p>Provide a dressing-gown (pre-searched). Allow her time to put it on for the rest of the search.</p>	
<p>Ask her to remove her shoes, socks, tights etc and pass to Officer 2.</p>	<p>Search the shoes, socks, tights etc and then place them to one side.</p>
<p>Ask her to lift each foot so the soles can be checked.</p>	
<p>Ask her to remove all clothing from the lower part of her body except for her knickers and pass to Officer 2.</p>	<p>Search all clothing and place to one side.</p>

Once the clothing has been searched ask her to raise the dressing-gown to her waist. Observe the lower half of her body	
Look at the area around her for anything she may have dropped before or during the search.	
Ask her to step to one side to ensure she is not standing on anything she has dropped before or during the search.	If not proceeding to level 2 of the search, return the clothing and allow the prisoner time to put on her clothing and search the dressing-gown again. If proceeding to level 2, ask the prisoner to raise dressing gown to cover top half of her body.
<u>Level 1 Ends Here</u>	
LEVEL 2	
If there is any suspicion or intelligence that the woman has concealed any item in her underwear, or any illicit articles have been discovered concealed, during level 1 of the search, proceed as follows:	
Ask the woman to lower her dressing gown to her waist and remove her bra.	Search the bra.
Ask her to hold her arms up and turn around whilst observing her upper body. Check her hands. Ask her to put her bra and dressing gown back on. NOTE: If necessary, the woman, if 18 or over, can be required to expose part of her body where items are thought to be concealed i.e. under breasts at this stage.	
Ask her to remove her knickers and pass to Officer 2.	Search the knickers.

<p>Once the knickers have been searched ask her to raise the dressing-gown to her waist and observe lower half of her body. Ask the woman to stand with her legs apart while the lower half of her body is observed.</p> <p>If necessary, the women, if 18 or over, can be required to expose part of her body where items are thought to be concealed, i.e. under the stomach at this stage.</p> <p><i>Staff must be aware of the policy applying to the removal and disposal of sanitary wear. Externally applied sanitary towels will be removed and placed in an appropriate container and disposed of. A replacement must be provided. Staff must not remove, or ask the subject to remove, internally fitted tampons.</i></p> <p><i>A women must never be asked to squat.</i></p>	
<p>Look at the area around her for anything she may have dropped before or during the search.</p>	
<p>Ask her to step to one side to ensure she is not standing on anything she has dropped before or during the search.</p>	<p>Return the clothing and search the dressing-gown again.</p>
<p>Allow the prisoner time to put on her clothing.</p>	
<p>Sign record to state why level 2 search was initiated.</p>	<p>Sign record to state why level 2 search was initiated.</p>

Appendix Nine: Sentencing Guidelines for Rape within the U.K.

Rape: Sexual Offences Act 2003 (section 1)

Triable only on indictment Maximum: Life imprisonment

Offence range: 4 – 19 years' custody

This is a serious specified offence for the purposes of sections 224 and 225(2) (life sentence for serious offences) of the Criminal Justice Act 2003.

For offences committed on or after 3 December 2012, this is an offence listed in Part 1 of Schedule 15B for the purposes of sections 224A (life sentence for second listed offence) of the Criminal Justice Act 2003.

For convictions on or after 3 December 2012 (irrespective of the date of commission of the offence), this is a specified offence for the purposes of section 226A (extended sentence for certain violent or sexual offences) of the Criminal Justice Act 2003.

STEP ONE

Determining the offence category

Offences may be of such severity, for example involving a campaign of rape, that sentences of 20 years and above may be appropriate.

Harm	
Category 1	The extreme nature of one or more category 2 factors of the extreme impact caused by a combination of category 2 factors may elevate to category 1
Category 2	<ul style="list-style-type: none"> • Severe psychological or physical harm • Pregnancy or STI as a consequence of offence • Additional degradation/humiliation • Abduction • Prolonged detention/sustained incident • Violence or threats of violence (beyond that which is inherent in the offence) • Forced/uninvited entry into victim's home • Victim is particularly vulnerable due to personal circumstance*
Culpability	
A	
Significant degree of planning	

Offender acts together with others to commit the offence
Use of alcohol/drugs on victim to facilitate the offence
Abuse of trust
Previous violence against victim
Offence committed in course of burglary
Recording of the offence
Commercial exploitation and/or motivation
Offence racially or religiously aggravated
Offence motivated by, or demonstrating, hostility to the victim based on his or her sexual orientation (or presumed sexual orientation) or transgender identity (or presumed transgender identity)
Offence motivated by, or demonstrating, hostility to the victim based on his or her disability (or presumed disability)
B
Factor(s) in category A not present

STEP TWO

Starting point and category range

Having determined the category, the court should use the corresponding starting points to reach a sentence within the category range on the next page. The starting point applies to all offenders irrespective of plea or previous convictions. Having determined the starting point, step two allows further adjustment for aggravating or mitigating features set out on the next page.

A case of particular gravity, reflected by multiple features of culpability or harm in step one, could merit upward adjustment from the starting point before further adjustment for aggravating or mitigating features, set out on the next page.

	A	B
Category 1	Starting point 15 years' custody	Starting point 12 years' custody
	Category range 13-19 years' custody	Category range 10-15 years custody
Category 2	Starting point 10 years' custody	Starting point 8 years' custody
	Category range 9-13 years' custody	Category range 7-9 years' custody
Category 3	Starting point 7 years' custody	Starting point 5 years' custody
	Category range 6-9 year's custody	Category range 4-7 years' custody

The table below contains a **non-exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender. Identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the starting point. **In particular, relevant recent convictions are likely to result in an upward adjustment.** In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

Aggravating Factors
<i>Statutory aggravating factors</i>
Previous convictions, having regard to a) the nature of the offence to which the conviction relates and its relevance to the current offence; and b) the time that has elapsed since the conviction
Offence committed whilst on bail
<i>Other aggravating factors</i>
Specific targeting of a particularly vulnerable victim
Ejaculation (where not taken into account at step one)
Blackmail or other threats made (where not taken into account at step one)
Location of offence
Timing of offence
Use of weapon or other item to frighten or injure
Victim compelled to leave their home (including victims of domestic violence)
Failure to comply with current court orders
Offence committed whilst on licence
Exploiting contact arrangements with a child to commit an offence

Presence of others, especially children
Any steps taken to prevent the victim reporting an incident, obtaining assistance and/or from assisting or supporting the prosecution
Attempts to dispose or conceal evidence
Commission of offence whilst under the influence of alcohol or drugs

Mitigating Factors
No previous convictions or no relevant/recent convictions
Remorse
Previous good character and/or exemplary conduct*
Age and/or lack of maturity where it affects the responsibility of the offender
Mental disorder or learning disability, particularly where linked to the commission of the offence

* Previous good character/exemplary conduct is different from having no previous convictions. The more serious the offence, the less the weight which should normally be attributed to this factor. Where previous good character/exemplary conduct has been used to facilitate the offence, this mitigation should not normally be allowed and such conduct may constitute an aggravating factor.

In the context of this offence, previous good character/exemplary conduct should not normally be given any significant weight and will not normally justify a reduction in what would otherwise be the appropriate sentence.

<p>STEP THREE</p> <p>Consider any factors which indicate a reduction, such as assistance to the prosecution</p> <p>The court should take into account sections 73 and 74 of the Serious Organised Crime and Police Act 2005 (assistance by defendants: reduction or review of sentence) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered) to the prosecutor or investigator.</p>
<p>STEP FOUR</p> <p>Reduction for guilty pleas</p> <p>The court should take account of any potential reduction for a guilty plea in accordance with section 144 of the Criminal Justice Act 2003 and the <i>Guilty Plea</i> guideline.</p>
<p>STEP FIVE</p> <p>Dangerousness</p> <p>The court should consider whether having regard to the criteria contained in Chapter 5 of</p>

Part 12 of the Criminal Justice Act 2003 it would be appropriate to award a life sentence (section 224A or section 225(2)) or an extended sentence (section 226A). When sentencing offenders to a life sentence under these provisions, the notional determinate sentence should be used as the basis for the setting of a minimum term.

STEP SIX

Totality principle

If sentencing an offender for more than one offence, or where the offender is already serving a sentence, consider whether the total sentence is just and proportionate to the offending behavior.

STEP SEVEN

Ancillary orders

The court must consider whether to make any ancillary orders. The court must also consider what other requirements or provisions may automatically apply.

STEP EIGHT

Reasons

Section 174 of the Criminal Justice Act 2003 imposes a duty to give reasons for, and explain the effect of, the sentence

STEP NINE

Consideration for time spent on bail

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003.