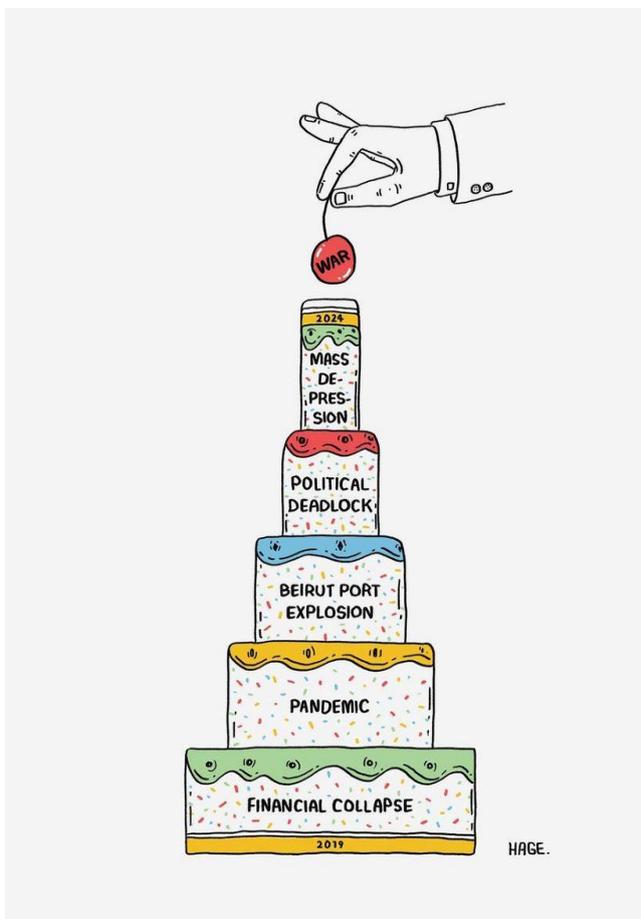


Freedom of movement from Lebanon instead of criminalisation of migration by Anja Pilchowski, 30 September 2024

In my recent articles, I outlined why Lebanon has become a country of destination for people, i.a. from Syria and Sudan. However, Lebanon is also a country of origin.

People in Lebanon have many reasons to stay. Love for others, solidarity, sustainable farming, nature, the wisdom of people, the love for life, the ability to find solutions to almost every challenge are just a few of them. However, Lebanese people and members of the migrant and refugee communities in Lebanon have also multiple reasons for migrating resp. fleeing from Lebanon¹. Illustrator and cartoonist Bernhard Hage (alias the.art.of.booo) captured most of the reasons in the illustration "A Lebanese delight", a work for the newspaper L'Orient Le Jour (Hage, 2024)², to which I have added a few more in the adjacent box:



The economic and financial crisis that began in October 2019, the negative effects of the COVID-19 pandemic, the port explosion in August 2020, the political deadlock, the hostile situation for Queer people, human rights activists, or Syrian refugees, the non-recognition of Sudanese refugees, or the decades-long non-recognition of Palestinian refugees, as well as the Israeli attacks and bombings since October 2023 which intensified in September 2024, leading to several hundred deaths, several thousand seriously injured people³ and the mass displacement of over 200,000 people according to IOM resp. ~500,000 people according to Amnesty International from south to north Lebanon (World Bank Group, 2022; Amnesty International, 2024b; International Organization of Migration, 2024; Human Rights Watch, 2024a; Human Rights Watch, 2024b) are only the most serious reasons to leave Lebanon.

¹ Freedom of movement also always means being able to return.

² Thank you, Bernhard, for allowing me to use your illustration for that article.

³ I refrain from categorising the dead and injured people into terrorists and civilians, because I am not a court. And even if some were terrorists, they should have been put on trial and not killed or injured.

Leaving Lebanon is associated with the challenge of finding legal options. According to the Universal Declaration of Human Rights, which Lebanon automatically adopted as a founding member of the UN, does “everyone [has] the right to leave any country”. For people from Syria, Yemen, or Iraq residing in Lebanon, the humanitarian corridors programme offers one legal opportunity to leave Lebanon for Italy or France (Mediterranean Hope, n.d.). However, the programme has limited capacities, involves a bureaucratic process, and is only available to a few nationalities but not to all people in Lebanon.

Other options include applying for an ordinary visa, a work visa or a humanitarian visa⁴. However, while citizens of OECD countries can travel visa-free to many parts of the world, others, such as people from West Asia, have to apply for a visa and undergo datafication and surveillance. Mau et al. (2015) have shown that visa waiver programmes have increased significantly overall since 1969 summarising that “citizens from Europe and the Americas have gained global mobility rights, while those coming from Oceania and Asia have been excluded from this development. (...) Hence, we observe an increased global mobility divide over the last 40 years which fosters inequality between citizens of the ‘Global North’ and the ‘Global South’ in terms of mobility rights” (ibid., p. 15-16). For movements to desired destinations against these constraints, Souiah (2019) highlighted how people from the Global South find ways when exercising their right to freedom of movement that become illegalised by the Global North. Instead of spending plenty of money and waiting months or even years for the assessment of visa applications, people become حرافة (ḥarrāga(s))- “those who burn” papers/borders. And Europe’s answer to these movements is the criminalisation of migration.

The criminalisation of migration is commonly described as “the increased entanglement of criminal and immigration procedures. (...) Historically, states handled immigration infractions through civil or administrative systems separate from criminal law. However, in response to increased migration and mobility, the politicisation of this topic, and a cultural shift in how receiving countries perceive immigrants, immigration and criminal law have become more intertwined. This has increased the number of people processed in immigration systems, detained, and deported” (Kogovšek Šalamon et al., 2020, p. 3) The criminalisation of migration was i.a. fuelled by the events of 9/11. Hereafter, former U.S. president George W. Bush declared the war on terror [and terrorists] saying that the “[U.S.A.’s] response involves far more than instant retaliation and isolated strikes. [US-]Americans should not expect one battle, but a lengthy campaign unlike any other [they] have ever seen” (CNN, 2001, para. 51). And since the terrorist attacks in Madrid 2004 and London 2005, the EU seems to be copying the strategic war on terror, which has led to the construction of so-called Fortress Europe and the externalisation of borders. Externalised border control together with the criminalisation of migration is

⁴ A prerequisite is that people have a passport or other travel documents. However, many people in Lebanon simply do not have a passport for various reasons. For example, when people descend from Lebanese mothers and fathers from other countries, they rarely have Lebanese citizenship and therefore do not have a passport. Or when people have no financial means or are afraid to apply for a passport, as is the case for many Syrian people in Lebanon.

rapidly intensifying and taking on a variety of forms. The responsible European authorities know about the lethal consequences of their migration management policies⁵, yet they choose to continue to financially fund (social, financial, physical, and mental) death bringing regulations and treaties. Thus, as the leading donor, the EU quickly recognised Lebanon's crucial role in keeping migrants out of Europe and announced yet another migration deal in May 2024 (European Commission, 2024).

Nota Bene: It is interesting that the United States of America has continuously gone to countless countries (e.g. Vietnam, Iraq, Afghanistan, Yemen) to create turmoil, kill numerous people and exploit them without getting anywhere near the same reaction, as their citizens can still travel wherever they want without being criminalised in the way they criminalise people. It is also interesting to note that European countries, too, went continuously to countless countries (e.g. most countries of the African continent) to colonise them and exploit them (e.g. with the trade of enslaved people or extraction of resources) without getting anywhere near the same response since they can also still travel unhindered as Mau et al. (2015) have shown.



Lebanon will come back, Sarhan, 2020

Forms of criminalisation

- Boat drivers/ facilitators of migration resp. flight

The urge to leave Lebanon has been strong again since the worsening economic and political situation, illegalised residencies and, most recently, intensive Israeli bombardments since October 2023 which have already claimed many lives and intensified again in September 2024. In particular, the Israeli attacks of 17 and 18 September⁶ and 23, 24⁷ and 27 September 2024⁸, which killed several hundred people and several thousand people seriously injured. At the time of writing this article, the number of killed and injured people continues to rise steadily due to continued attacks. The recent attacks in September 2024 may have also triggered the largest internal

⁵ Reached through the numerous input of people on the move and their experiences with border violence, which was collected and published i.a. by (trans)national networks, non-governmental organisations, and universities.

⁶ Orchestrated explosions of pagers and walkie-talkies.

⁷ Operation Northern Arrow.

⁸ Carpet bombing of civilian buildings in South Beirut with the aim of killing Hezbollah leader Hassan Nasrallah with several hundred civilian casualties.

displacement of people in recent Lebanese history (BBC, 2024). And people who were already living in a precarious situation have lost access to their home and/or work place or passports. This applies in particular to people from the migrant and refugee communities with illegalised residence status and for migrant workers under the exploitative Kafala [work sponsorship] system who have been abandoned by their employers (The New Humanitarian, 2024).

According to a report by the International Organization of Migration (IOM) (2023), indicates that *“there has been a marked increase in willingness to migrate irregularly from Lebanon in recent years”* (ibid., p. V). Most people are forced to leave Lebanon by sea rather than by land, as travelling through Israel and war-torn Syria is not an option. A popular migration route from Lebanon for Palestinians, Lebanese, and Syrians was by boat to Cyprus (Human Rights Watch, 2024b). Along this route, numerous pushbacks, pullbacks, and (invisible) shipwrecks happened (Monroy, 2023; Alarm Phone, 2024; The New Arab, 2024). And in mid-April 2024, this migration route was shut down when five boats were pushed back, anticipating the upcoming migration deal between the EU and Lebanon announced in May 2024 (L'Orient Le Jour, 2024; European Commission, 2024). Like in Spain, Italy, and Greece, boat drivers are also criminalised on the nearby island of Cyprus and in Lebanon, when pushed back or pulled back. Typically, these boat drivers are detained in Cypriot and Lebanese prisons immediately upon arrival and remain there or are unlawfully deported - either from Cyprus to Lebanon or from Lebanon to Syria (InfoMigrants, 2023; InfoMigrants, 2024, Human Rights Watch, 2024b). However, there is no comprehensive monitoring and recording of events, like in Italy with the project *“From Sea to Prison - The Criminalisation of Boat Drivers in Italy”* of ARCI Porco Rosso in cooperation with former and current imprisoned people, the transnational network Alarm Phone and *borderline-europe* (cf. *borderline-europe*, n.d.). According to the Lebanese Center for Human Rights (CLDH) (2023), the effects of the European policies of border externalisation in Lebanon remain underresearched.

Just like boat drivers, facilitators also play a crucial role in migration/flight from Lebanon. With a long and life-saving history, facilitators have always been essential in helping people move to safety. In German history⁹, facilitators were urgently needed, when the Nama & Herero people were brutally starved, beaten to death, raped, and put into concentration camps for forced labour during the first genocide of the 20th century by command-executers of the German Empire. Or when command-executers of Nazi Germany persecuted and killed Jewish people, Romani and Sinte people, Queer people, political opponents, dis_abled people, Black people and homeless people during the Second World War. In Nazi-occupied France, the for the Emergency Rescue Committee active Varian Fry together with Lisa Fittko and others as well as Adolfo Kaminsky together with others, helped thousands escape the Nazis through organised escapes or forged passports (International Rescue Committee, n.d.; The New York Times, 2016; DoppelHouse Books, n.d.). Or when Germany was divided into the German

⁹ The following is not intended to create a comparison with Lebanese conditions, but to help people understand how important facilitators have always been. In particular, it is intended to hold up a mirror to the politically responsible people in Germany who continue to push for the criminalisation of facilitators.

Democratic Republic (GDR) and the Federal Republic of Germany (FRG) between the years 1949 and 1989. Refugees fleeing dictatorship and surveillance in the GDR received support from facilitators from the FRG. Facilitation also developed - while the first support actions were often acts of solidarity by West Berlin students who wanted to help family members and relatives, later professional facilitators offered support to individuals in return for a payment (Bundesstiftung zur Aufarbeitung der SED-Diktatur, n.d.). Thus, one person's sorrow is another person's business, and in the context of facilitating illegalised migration, this unfortunately also means that some people take financial advantage of these precarious situations in which people urgently need to leave a country. However, as there are no legal options for many, people either resort to solidarity facilitation or business facilitation. And both are criminalised, leading to harassment, bribery and imprisonment - or even death.

- Human rights activists and lawyers

Dadusc & Mudu (2020) present manifold forms of criminalisation of solidarity with people on the move and argue that "*autonomous migrant solidarity, as opposed to charity and [states'] assistance, does [aim] at creating cracks in the operation of the border. The criminalization of these is (...) hindering any form of solidarity*" (ibid., p. 21). In a 2023 report, Human Rights Watch (2024a) showed that the Lebanese authorities "*have stepped up harassment of lawyers, activists, journalists, and even comedians in response to public criticisms of the government and public officials*" (ibid., para. 3).

Recently, the Lebanese attorney Mohammad Sablough faced escalating harassment and legal challenges due to his involvement in documenting cases and legally assisting victims of torture, arbitrary detention and unlawful deportations of Syrian refugees e.g. after pushbacks/pullbacks to Lebanon (Frontline Defenders, 2024). In August 2024, while attending a client's hearing, the head of the Military Court in Beirut informed him that the Court panel had issued a decision to prevent Mr Sablough from entering the Military Court for three months due to a critical post on social media (Cedar Centre for Legal Studies, 2024b)¹⁰. The military court has jurisdiction over civilians i.a. for cases of torture in Lebanese prisons (Human Rights Watch, 2017; Amnesty International 2024a) and so-called terrorism charges.

The ban meant that Mr Sablough was no longer able to represent his clients in court. This kind of criminalisation not only threatens the future of the legal profession in Lebanon, but is a message to all Lebanese lawyers to watch their actions. And in March 2024, the Syrian researcher Jumaa Laheeb who is advocating for democratic reforms, human rights, and political change in Syria, faced the threat of deportation, as per the decision by the Lebanese General Security (Cedar Centre for Legal Studies, 2024a).

¹⁰ Update: "On September 25, 2024, the Military Court of Cassation issued a decision to rescind the order preventing lawyer Sablough from entering the military court. (...) Therefore, Mr Sablough can enter the Military Court again and plead in the court" (Cedar Centre for Legal Studies, 2024b).

By criminalising acts of solidarity with people on the move, Lebanon is also contributing to the shrinking spaces of civil society. This leaves the mistreatment of people on the move unchallenged as voices of civil society are silenced.

Freedom of movement for all

Freedom of movement allows people to expatriate, migrate, flee, work, and live in "different locations, promoting cultural exchange, economic development, and personal freedom/[safety]" (Coman, 2024). In theory, this universal human right is already anchored in law in Article 13 of the Universal Declaration of Human Rights. This states that "[e]veryone has the right to freedom of movement and residence within the borders of each state (...) [and] the right to leave any country, including his own, and to return to his country".



Food, health, and housing for everyone immediately, Sarhan, 2020

However, the realisation of Article 13 fails at all national borders. Visa and passport regimes, along with the residence and asylum laws, usually regulate migration and flight in order to preserve the so-called (inter)national security. Additionally, European institutions continuously work to enhance the economic benefit of labour migration, while curbing unwanted movements through bi- and multilateral arrangements and criminalisation of migration. As a result, the EU is tightening or abolishing legalised accesses to the EU, e.g. with visa regulations that are not in favour of people from the Global South (Mau et al., 2015) or with the reform of the Common European Asylum System (CEAS), which shall allow rapid (and therefore possibly error-prone) asylum procedures at the external borders of the EU. According to Rygiel (2016), the crackdown on people on the move not only prevents them from reaching their preferred destinations, but also discourages them from fleeing life-threatening situations. In regions like Lebanon, which is currently facing a war of aggression, freedom of movement is ensuring the safety of those escaping peril.

With the latest developments of September 2024, we need the unconditional right to freedom of movement for all, an end to Israel's war of aggression in Lebanon¹¹, and rapid humanitarian aid on-site. And instead of sending a billion euros to curb illegalised migration, the EU should invest these funds in all the creative ideas of local and migrant communities who want to shape the Lebanon of tomorrow for everyone.

NOW.

¹¹ Beirut Open Lab (2024); CNN (2024); L'orient Today (2024); Reuters (2024); United Nations Interim Force In Lebanon (2024).

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