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RULE OF LAW ASSESSMENT 2015

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ACRONYMS

AOC	Administrative Office of the Court
BBA	Beirut Bar Association
CCIA	Chamber of Commerce Industry and Agriculture
CDCS	Country Development Cooperation Strategy
CEDR	Centre for Effective Dispute Resolution
CLDH	Centre Libanais des Droits Humains
CLE	Continuing Legal Education
CP	Country Performance
CPM	Centre Professionnel de Médiation/Professional Mediation Center
CPS	Case Processing System
CSO	Civil Society Organization
COR	Contracting Officer Representative
DG	Democracy and Governance Office USAID/Lebanon
DRG	Democracy, Human Rights, and Governance
DO	Development Objective
EU	European Union
GOL	Government of Lebanon
GS	General Security
HJC	High Judicial Council
ICAJ	Independence, Competency, and Accessibility of the Judiciary
IFC	International Finance Cooperation
IM	Implementing Mechanism
IP	Implementing Partners
IR	Intermediate Result
ISF	Internal Security Forces
IT	Information Technology
JIU	Judicial Inspection Unit
JTI	Judicial Training Institute
LAF	Lebanese Armed Forces
LF	Lebanese Forces (political party)
MENA	Middle East and North Africa
MOF	Ministry of Finance
MOIM	Ministry of Interior and Municipalities
MOJ	Ministry of Justice
MOU	Memorandum of Understanding
MP	Member of Parliament
NCSC	National Center of State Courts
NGO	Non-Governmental Organization
OMSAR	Office of Minister of State for Administrative Reform
PAD	Project Appraisal Document
PM	Prime Minister
PMP	Performance Monitoring Plan
PMSPL	Performance Management and Support Program-Lebanon
PPP	Public Private Partnership
RFA	Request for Applications
SI	Social Impact, Inc.
SIJCAJ	Strengthening the Independence of the Judiciary and Citizen Access to Justice in Lebanon
SOW	Statement of Work
SROL	Security and Rule of Law
TBA	Tripoli Bar Association
UN	United Nations

UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UNODC	UN Office on Drugs and Crime
USAID	U.S. Agency for International Development
USG	United States Government

EXECUTIVE SUMMARY

Introduction

The purpose of the Rule of Law Assessment (ROL) 2015 is to provide USAID with a targeted analysis of the status of the rule of law in Lebanon by examining the justice institutions and determining their level of independence and effectiveness, by exploring the competency and integrity of judges, and by analyzing the accessibility of the judiciary. The assessment is additionally to provide USAID with opportunities for further development of the rule of law in Lebanon with potential programing and prioritized recommendations that could benefit from USAID interventions, including short-term activities that are follow-on from the former USAID rule of law program.

In August-September 2015, the assessment team conducted five weeks of key informant interviews with stakeholders from the justice institutions, the government of Lebanon, civil society organizations, including the Lebanese Bar Association, law faculties, and the private sector. The team relied on an extensive review of rule of law and democracy and governance documents and made site visits to courthouses in Beirut, Baabda, Tripoli and Zahle.

Historical and Political Context

Two influential studies preceded this one: the Rule of Law Assessment (ROL) 2006 and the Democracy and Governance Assessment 2011, each of these provided a historical and political context built upon in this assessment. This assessment highlights changes since the 2006 assessment. Illustrative of the recent political context is the inability of the Parliament to elect a President since May 2014. The Parliament, which has the responsibility for electing the President, has repeatedly failed to convene a quorum of two-thirds of the members needed to proceed with the election process. The absence of a President has caused major problems within the justice system; the President's signature is required on decrees to appoint, rotate and promote judges. Consequently, for the past two years, there has been no rotation or promotion of judges resulting in vacancies and an increased backlog of cases that were already severely backlogged.

Additionally, the Parliament has failed to address draft laws that would favorably impact the judiciary, such as the draft law on the independence of the judiciary, and the draft law on judicial mediation. There have been numerous attempts by several stakeholders to pursue the passage of these draft laws, but there has been no consensus in Parliament to move these draft laws forward. Interestingly, the Parliament did increase the judges' salary a few years ago, after an intensive lobbying effort by the judges. The dysfunction of the Parliament is seen in the failure to approve the government's budget, including a revised judiciary budget. Lebanon has not had an approved budget since 2005. The upshot of these two failures of governance has crippled growth of the judiciary.

The Syrian refugee crisis has taken a toll on the Government of Lebanon. Over 1.113 million[1] Syrians have fled into Lebanon adding to a host population of only 4.5 million[2]. The impact has been felt at all levels of the Lebanese society, including the ability of the justice system to render justice. Criminal cases have increased around 40% to 50% with the influx of refugees. Since the refugee influx legal aid from the Lebanese Bar Association has increased dramatically to accommodate the needs of indigent Lebanese citizens plus Syrians.

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[1] UNHCR Report as of August 2015 http://data.unhcr.org/syrianrefugees/country.php?id=122

[2] World Bank report for 2014 http://www.worldbank.org/en/country/lebanon

While the assessment team was in Lebanon, the public began to demand a change in government. The demand for change was triggered by a garbage crisis that resulted in heaps of garbage piled waist-high on the streets throughout Lebanon. When coupled with intermittent electricity and water supply, Lebanese normal acquiescence gave way to widespread discontent. Civil society organizations organized demonstrations opposing lack of transparency and poor governance. The demonstrations were well-attended by citizens of all sectors of society. While the government tried to respond to the demands of the demonstrators, the Parliamentarians failed to meet and successfully resolve the crisis. The crisis continues with the government seemingly unable to find solutions to problems. The view expressed in the ROL Assessment 2006 that "…the system is a self-perpetuating capture of state power by a political elite that both lacks national accountability and undermines government commitment to the public good" remains credible.

Rule of Law Context

The ROL Assessment 2006 found that Lebanon has a history of political frailty and weak internal consensus that has led to the capture of political power by unaccountable elites leaving Lebanon vulnerable to external influences. It further found that a political system without sound consensual foundations, such as Lebanon, undermines the rule of law.

The ROL Assessment 2006 listed three major problems with regards to the effective application of the laws:

- The court system is antiquated and overburdened by an excessive case load, an understaffed judiciary, and a lack of systematic training for sitting judges;
- The laws are outdated due to a dysfunctional Parliament, which continues today; and
- The laws are poorly enforced primarily due to political interference in the enforcement process.

USAID implemented many of the recommendations of the ROL Assessment 2006 in its design of a three-year $6.7 million "Strengthening the Independence of the Judiciary and Access to Justice" (SIJCAJ) Program, implemented by National Center of State Courts (NCSC) for the time period 2008-2010. The objectives of SIJCAJ were to address the justice sector challenges, particularly the need to increase the independence and effectiveness of the Lebanese judicial system. The SIJCAJ budget was later amended to include the refurbishment of the Judicial Training Institute and was increased to $8.2 million.

An evaluation of SIJCAJ was conducted in October 2010 resulting in several findings, many of which concluded that the SIJCAJ met its goals; however, there were some SIJCAJ activities that were resisted by the Ministry of Justice and the Judicial Training Institute. Additionally, there was an NCSC personnel issue, which initially detracted from the success of SIJCAJ, but was ultimately resolved.

Upon completion of SIJCAJ in 2010, USAID did not fund any rule of law activities. In 2011, USAID conducted a Lebanon Democracy and Governance Assessment with included an update on the rule of law. The assessment found that the judicial power was heavily dependent on the executive branch and was subjected to political interference; it further found that there were court delays causing a large backlog of cases, and that certain groups and geographic areas operated extra-judicially while the elite were exempt from punishment, which combined to undermine the rule of law. The assessment refers to "elite impunity." It underlies how the sectarian elites play an important role in appointing politically-loyal, though technically competent judges to key judicial posts, and use their influence and connections to protect supporters from prosecution. It also underlies how big business tied to the confessional elites derives benefits from a weak and chaotic legal framework through which an elaborate system of bribery, patronage, and graft—protected by banking secrecy codes that provide a safe haven for shadowy business practices—makes it possible to advance private interests while circumventing the formal legal system.

Assessment Questions

A. What is the current level of political independence of the Lebanese judiciary?

B. What are the major challenges that negatively impede the judiciary from carrying out its public mandate?

C. What are the political and governance considerations that USAID should take into account in providing rule of law assistance?

D. Are there elements of Lebanon's judicial system that contribute to the rise of violent extremism, and if so, what are the ways of addressing them?

Key Findings

1. The current level of political independence of the Lebanese justice system is low due to judicial dependence on the executive branch and improper interference by the parliamentarians, confessional leaders, attorneys, family, friends as well as other judges.

2. The legal framework of the justice system is the major cause of judicial dependence on the executive and legislative branches of government.

3. While the justice system is not independent, Lebanese judges generally have the reputation within the legal and judicial communities of being independent due to their competency and integrity, although this is in sharp contrast to the public perception of judges, which is that most judges put their own interests above their obligation to protect the civil liberties and human rights of all citizens.

4. The poor conditions of the judicial infrastructure and lack of basic equipment including automation contribute to an inefficient and ineffective judiciary as well as a lack of respect for the judiciary.

5. The low financial, human, technical and administrative resources available to the judiciary negatively impede the judiciary from carrying out its public mandate.

6. The increase in the Syrian refugee population in Lebanon, estimated to be 1.1 million by United Nations High Commissioner for Refugees (UNHCR) overstrain an over-burdened judicial system which has not received a budget increase since 2005.

7. The key judicial stakeholders, the Minister of Justice, the High Judicial Council, the President of the Court of Cassation, and the President of the Council of State, are receptive to judicial reforms and working in collaboration with civil society organizations to enhance the independence of the judiciary.

8. The preeminent causes of violent extremism are: (1) the violation of pre-trial detention procedures, (2) the unequal application of the law and disproportionate sentences for the same crime, (3) the slow trial process leading to increased case backlog, (4) the broad jurisdiction of the military courts, and (5) the miserable and over-crowded prison conditions.

Strategy for Rule of Law Assistance

The assessment team determined that, based on all of the key informant interviews as well as its own document review, while the justice system is not *de jure* independent, judges themselves are viewed by the legal and judicial communities as being independent, although most citizens view judges as corrupt. Thus, the strategic approach for supporting the rule of law in Lebanon is to focus on amending the legal framework in order to enhance the independence of the justice system for which there has been little political will, while concurrently developing the competency, effectiveness and accessibility of the judiciary.

With this strategic approach, the goal of independence would underlie all activities associated with developing the competency, effectiveness and accessibility of the judiciary. Thus, when political will shifts towards increasing the structural **independence** of the justice system, the judiciary will be better prepared to absorb the responsibilities and obligations of an independent justice system by being more **competent** with increased training; by being more **effective** in administering and managing the operations of the court through expanded administrative responsibilities of the High Judicial Council, in conducting its work in modern court facilities with automated court administrative procedures, and in reducing its caseload with the sanctioning of judicial mediation; and by being more **accessible** to the citizens of Lebanon in serving those who have received increased legal aid from civil society organizations, including the Beirut and Tripoli Bar Associations.

Recommendations

The assessment team recommends to USAID to develop a second rule of law program with the goal of enhancing the independence, competency, effectiveness and accessibility of the justice system, and is recommending specific long-term and short-term activities within each of the four essential elements in enhancing the rule of law in Lebanon. The long-term activities are as follows:

A. Independence

1. Support the Development of a Ten-Year Strategic Plan for the Justice System of Lebanon.

2. Reform the Legal Framework of the Justice System of Lebanon.

3. Support an Annual Assembly of Judges and Periodic Judicial Forums with the Ultimate Goal of Creating an Association of Judges.

4. Support Civil Society Organizations, including the Beirut and Tripoli Bar Associations, as Catalysts for Change in Promoting and Protecting Judicial Independence in Lebanon.

B. Competency

5. Develop a Continuing Legal Education Program with the High Judicial Council.

6. Enhance the Legal Education Program at the Judicial Training Institute.
7. Provide Training to the Leaders of the Religious Courts on Human Rights and Due Process. (The Christian denominations have their own codes, and due to the existing Jewish population of Lebanon there is also a Jewish personal status code.[3])

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[3] http://www.reunite.org/edit/files/Islamic%20Resource/Lebanon%20text.pdf. This document was produced in 2005 and is a summary of the laws of Lebanon that appertain to international parental child abduction, contact and relocation as they were at that time.

C. Effectiveness

8. Expand the Model Court Program of Renovation.

9. Develop Model Court Standards for all Courts of Lebanon that will Improve Court Administration of all court offices, processes, and cases by Automating Case Management, Advancing Case Processing and Reducing Case Backlog

10. Develop an Administrative Office of the Courts within the High Judicial Council and the Council of State Bureau.

11. Support the Implementation of a Judicial Mediation Program in Lebanon.

D. Accessibility

12. Enhance the Legal Aid System in Lebanon by Supporting the Beirut and Tripoli Bar Associations' Legal Aid Programs, and by Supporting Civil Society Organizations, particularly those who represent Vulnerable Populations, including Women, Children, Poor, as well as Syrian Refugees.

I. INTRODUCTION

A. PURPOSE OF ASSESSMENT

The purpose of the ROL Assessment 2015 is to provide USAID with a targeted analysis of the status of the rule of law in Lebanon by examining the justice institutions and determining their level of independence and effectiveness, by exploring the competency and integrity of judges, and by analyzing the accessibility of the judiciary.

The assessment will also provide an update of the analysis from the ROL Assessment 2006 which focused on the legitimacy, order and security, checks and balances, fairness and effective application of the rule of law in Lebanon, and identified several justice sector challenges as well as judicial reform opportunities.

USAID implemented many of the recommendations of the ROL Assessment 2006 in its design of a three-year $6.7 million "Strengthening the Independence of the Judiciary and Access to Justice" (SIJCAJ) Program for the time period 2008-2010. The objectives of SIJCAJ were to address the justice sector challenges, particularly the need to increase the independence and effectiveness of the Lebanese judicial system. The SIJCAJ budget was later amended to include the refurbishment of the Judicial Training Institute and was increased to $8.2 million.

An evaluation of SIJCAJ was conducted in October 2010 resulting in several findings, many of which concluded that the SIJCAJ met its goals; however, there were some SIJCAJ activities that were resisted by Ministry of Justice and the Judicial Training Institute. Additionally, there was a personnel issue which initially detracted from the success of SIJCAJ, but was ultimately resolved.

Upon completion of SIJCAJ in 2010, USAID did not fund any rule of law activities. In 2011, USAID conducted a Lebanon Democracy and Governance Assessment that included a significant update focusing on the rule of law.

The ROL Assessment 2015 has taken into account not only the ROL Assessment 2006, but also the rule of law activities of SIJCAJ, the evaluation of the SIJCAJ, and the Lebanon Democracy and Governance Assessment 2011. The ROL Assessment 2015 is presenting opportunities for further development of the Rule of Law in Lebanon. The ROL Assessment 2015 is providing objective and actionable evidence to guide potential programing and prioritized recommendations that could benefit from USAID intervention and programming, including short-term activities.

B. ASSESSMENT METHODOLOGY

The assessment team relied on a review of existing rule of law and democracy and governance documents provided by USAID, and, after an external literature research, on a review of documents pertaining to international standards of independent justice systems, as well as documents from other rule of law assistance providers in Lebanon.

Many of the documents reviewed by the assessment team describe the historical and political context of the rule of law in Lebanon, identify institutional and societal challenges faced by the judiciary power, and present solutions to meet those challenges. In line with the principles of the Paris Declaration on Aid Effectiveness, the Accra Agenda for Action, and the principles of USAID Forward, the assessment team conducted numerous interviews with key informants, mostly stakeholders, from government

institutions, civil society and private sector organizations. In order to collect comparable data across the different geographical and confessional landscapes of Lebanon the assessment team made several site visits to courthouses in Beirut, Tripoli, Baabda and Zahle.

The meetings with USAID and all key informants provided the assessment team with a more detailed and an in-depth understanding about issues relating to the rule of law, particularly the legitimacy, order and security, checks and balances, fairness and effective application of the rule of law. In all meetings with key informants, the assessment team presented the five assessment questions to which a variety of responses were given, providing the assessment team with a rich understanding of the challenges facing the justice system of Lebanon today and opportunities for USAID to address the challenges.

While the assessment was conducted during the two-month recess of the judiciary for which the assessment team anticipated constraints on meeting key informants, the team is pleased to report that all stakeholders who were essential to conducting the assessment were available to the team; the only exception being few civil society leaders that were unavailable for interviews due to their involvement with ongoing demonstrations opposing lack of transparency and poor governance.

In order to ensure that the assessment team's recommendations were supported by the stakeholders, the team conducted out brief meetings with the Minister of Justice, the Chief Justice of the Court of Cassation who is the President of the High Judicial Council, members of the High Judicial Council and the President of the Council of State.

Assessment Team

Ms. Mary Noel Pepys is a senior attorney with a specialization in the rule of law, specifically international legal and judicial reform, for the past 22 years, and has lived and worked within former communist countries, the Middle East, Asia and Africa in over 41 countries. She has deep knowledge of common law and civil law principles, having worked with USAID, U.S. Department of State, the World Bank, and the United Nations Development Programme to provide legal and technical assistance to national governments, judiciary, bar, and law faculties.

Ms. Jasmin Samy is a Senior Rule of Law/Human Right Specialist, with more than 15 years' experience designing and managing programs on ROL for USAID and other donor agencies. Since 2004, she was responsible for judiciary sector and human rights development activities at the USAID mission in Cairo while providing regional overview and support to other USAID missions in Middle East and North Africa (MENA) region.

Mr. Joe Karam is a leading Lebanese attorney with more than 10 years' experience working on ROL issues and judicial sector reform in Lebanon, with expertise in legal aid and access to justice. He serves as a chair of the Commission for International Relations of the Beirut Bar Association. He is also a Chevening Fellow (2005) of the Foreign and Commonwealth Office).

II. POLITICAL AND HISTORICAL CONTEXT

A. Context for the Rule of Law in Lebanon Since 2006

Over the last 10 years, Lebanon continued to plunge into political turmoil reflected in its daily politics. Since the ROL Assessment in 2006 and the Lebanon Democracy and Governance Assessment in 2011, there have been few changes that positively impact the Rule of Law in Lebanon. The following highlights what has changed, and what has not since the ROL Assessment 2006.

ROL 2006 Finding	ROL 2015 Finding	Comments
Lack of legitimacy plagues all government institutions	Lack of legitimacy continues to plague all government institutions including the judiciary	Since 2013, Parliament has renewed its mandate twice, once in May 2013, by voting to extend its term by 17 months, arguing that elections would constitute a major security risk given the fragile situation, and a second time in November 2014, by extending once again its term to 2017. According to a statement made by the Constitutional Council, "the decision was made to prevent a further power vacuum in state institutions."
Extremely poor perception of the rule of law in Lebanon	The public continues to have an extremely poor perception of the rule of law in Lebanon	Lebanese citizens continue to lack confidence in government institutions, officials and political representatives. They continue to perceive these actors as self-serving elites who are not responsive to the needs or concerns of ordinary citizens. This is reflected in the ongoing demonstrations in Beirut beginning in July 2015 by activists and civil society organizations opposing lack of transparency and poor governance.
Lebanon suffers from fragile political order, and fears about civil conflict, aggravated by external factors that contribute to instability and insecurity	Lebanon continues to suffer from fragile political order, civil unrest, which is aggravated by regional conflict	Even though the Syrian army no longer occupies Lebanon, the Syrian crisis is a major source of insecurity and instability in Lebanon at the political, social, and economic levels. This is reflected in the political divides in the country separating pro and anti-Syrian advocates; aggravated by Lebanon militia involvement in the armed conflict in Syria; and the 1.113 million officially registered Syrian refugees in Lebanon.
Threats to order and security are linked to the State's failure to provide adequate protection to its citizens	Threats to order and security continue to be attributed to the State's failure to protect its citizens	There are areas in Lebanon that are outside the control and authority of the State (Palestinian camps, border areas near Syria and Hezbollah-controlled areas). The State does not have authoritative monopoly over the instruments and use of force in most of these areas and therefore cannot administer justice effectively.
Concern for lack of order and ineffective law enforcement	Threats to personal safety (crime, assault, murder, rape) are a major concern compared to 2006.	The increase in the Syrian refugee population as a result of the Syrian crises has resulted in the rise of crime by at least 40%.
Order and security does not threaten the personal safety of	Order and security continues to	The string of assassinations and bombings that took place in Lebanon since 2006 (approximately 13), has threatened the order and security in Lebanon,

citizens as much as it undermines the legitimacy of the state	undermine the legitimacy of the state	compromised the Lebanese security forces and undermined the legitimacy of the State.
The system of checks and balances has introduced an element of dysfunctionality into government as it provided veto power to groups within the executive and legislative branch rather than an element of oversight between them.	The executive branch continues to exert important influence over the judiciary where the appointments of all judges are subject to the approval of the Minister of Justice and the Council of Ministers. Parliament has failed to pass any significant laws affecting the independence of the judiciary.	The independence of the judiciary continues to be undermined by the tremendous power vested in the executive branch. The appointment and rotation of judges remains in the hands of the executive branch. One positive change is that the Court of Cassation obtained financial autonomy over its own budget for 2016. The draft law to strengthen the independence of the judiciary has been languishing for five years and is not likely to be passed before 2017. Even though, Parliament has voted to extend its mandate to 2017, no legislative work is expected to take place over the next two years, unless a President is elected. What was described by a Lebanese judge in 2006 on the situation of the justice system as having "independent judges presiding over a dependent judiciary" is still valid.
Legacies of the Syrian occupation and political interference have tainted popular perception of fairness in the judiciary	Political interference continues to taint the public perception of fairness in the judiciary.	Political interference in the judiciary is wide-spread and occurs more often in criminal cases than civil cases. The judiciary system takes into consideration the sectarian nature of communities in the assignment and rotation of judges to certain courts; competency is trumped by confessionalism.
Access to justice is an impediment to fairness due to the unavailability of legal resources, lack of accessible information on citizens' rights and obligations, high legal costs, particularly court and attorney fees.	Access to justice continues to be an impediment to fairness due to the unavailability of legal resources, lack of accessible information on citizens' rights and obligations, high legal costs, particularly court and attorney fees.	Even though the Lebanese Bar Association has a legal aid program, its resources are limited to provide for the overwhelming number of cases of both Lebanese and the increasing influx of foreigners. Furthermore, still there is no government-funded public defender program.
Lebanon suffers from the application of the laws and enforcement of judicial decisions due to outdated and poorly drafted laws and an antiquated and overburdened court system.	Lebanon continues to suffer from the application of the laws and enforcement of judicial decisions due to outdated and poorly drafted laws and an antiquated and overburdened court system	The judicial system continues to suffer from an increasing number of cases, an inadequate number of judges and court personnel, an antiquated court administrative system and substantial case backlog. The lack of consensus in Parliament and more recently the presidential vacuum and non-convening Parliament undermine governance and make it impossible to update and modernize the legislation. The public continues to believe that poor enforcement of the law is due to political interference.

Personnel changes since 2006 in key positions in the Ministry of Justice and the judiciary are tracked in Annex VIII. The key factors influencing the Rule of Law in Lebanon are described below.

A.1. Absence of a President Since 2014

Lebanon has been without a President for more than 16 months. This is the longest period of time since the devastating civil war ended in 1990. Since Michel Sleiman's term in office ended on May 25, 2014, the Parliament, which is responsible for electing the President has failed more than 27 times to meet the two-thirds quorum required to hold an electoral session.[4] In the first parliamentary session set to elect the President on April 23, 2014, no candidate secured a two-thirds majority in the 128-member Parliament. In subsequent sessions since the expiration of Michel Sleiman's mandate, the Parliament lacked a quorum due to the intervention of opposing factions.

As a result of no President, there has been a lack of rotation of judges for the past 2 years and Court Clerks for the past 10-15 years. The process for rotation requires a Presidential signature after the High Judicial Council (HJC) provides a list of appointments and rotations to the Ministry of Justice (MOJ) who must approve the list by decree which must be signed by the MOJ, the President and the Prime Minister. The decree must also be published and then the appointment or rotation will take place. With the absence of a President, presidential powers are transferred to the Council of Ministers, and in accordance with Article 62 of the Constitution, all governmental decrees must be signed by the 24 Ministers, which has not happened during the past 2 years. In the absence of two years of rotations, judicial trainees who have graduated from the Judicial Training Institute (JTI) have not been appointed to the bench to fill vacancies. Many are serving as assistants in the MOJ or other governmental offices which can absorb them. To ameliorate the vacancy issue, the Higher Judicial Council has mandated sitting judges to two different positions, even two different courts, which is another cause of the massive case backlog. The current presidential vacuum also hinders the functionality of many other State institutions.

As of September 2015, Lebanon is split between two contending political coalitions: the pro-Syrian March 8 coalition led by the Shiite movement of Hezbollah in alliance with the Christian Bloc of MP Michel Aoun, and the anti-Syrian March 14 coalition led the by Sunni former Prime Minister Saad Hariri. The Western-supported March 14 coalition backs the election of the Lebanese Forces leader Samir Geagea, while the March 8 coalition led by the Iranian-supported Hezbollah militant party backs the election of the head of the Change and Reform parliamentary bloc MP Michel Aoun. The centrist Democratic Gathering led by MP Walid Jumblatt supports the candidacy of Henri Helou.[5] Both coalitions have failed to reach an agreement over a candidate within the constitutional time frame, which requires that the election of a new President must begin 60 days before incumbent's term of office ends. While the President's selection should be based on a competitive election in the Parliament, parliamentarians prefer to reach a consensus over a candidate. However, the consensus process depends not only on the domestic leaders, but also on their foreign allies. Neither of the two alliances has the majority to elect the President, which, according to the 1943 National Pact[6], should be a Christian Maronite.

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[4] Rita Daoo, One year on, still no president for Lebanon, Beirut, Lebanon, AFP, Friday 5/22/2015

[5] Lebanon fails to elect new president over lack of quorum, September 2015, http://www.lebanonnews.net/index.php/sid/236357843

[6] Farid el-Khazen (1991), The Communal Pact of National Identities: The Making and Politics of the 1943 National Pact, Centre for Lebanese Studies, 59 Observatory Street, Oxford OX2 6EP, UK, page 4; "The verbal understanding that was reached in 1943, which came to be known as the National Pact, embodied Lebanon's 'dichotomous' unity: internal unity within Lebanon, and Lebanese unity vis-a-vis the outside world, mainly Syria (then the major actor in Lebanon's regional order), and France (then the major colonial power in Syria and Lebanon)." The National Pact introduced the idea of confessional balance (mainly between Maronite and Sunni).

The current impasse delays the consideration of draft laws currently before the Parliament. While the Parliament passed a law increasing judges salaries in 2011, it has not passed any other law affecting the judiciary even though a draft law on the independence of the judiciary was introduced in 2010 and a draft judicial mediation law introduced in 2013 await consideration. Parliament has voted to extend its mandate to 2017 which portends continued dysfunction and little legislative work over the next two years.

A.2. Budget Issues

Since 2005, the government has not approved a new budget. The judiciary, as with the rest of the country, still operates with the 2005 budget. According to the Budget Law of 2005, the annual budget for the Ministry of Justice, which has control over the judiciary, was 49.05 billion Lebanese pounds (32.7 million US dollars) out of a total of 10,938 billion Lebanese pounds (6.6 billion US dollars, compared to 852 billion Lebanese pounds (568 million US dollars)for Ministry of National Defense, 877 billion Lebanese pounds (584 million US dollars) for Ministry of Education and 1197 billion Lebanese pounds (798 million US dollars) for the Ministry of Finance.[7] A reallocation of the budget is unlikely to take place in the next few years. Consequently, with 0.5% of the budget allocated for the judiciary, funding is not available for infrastructure, technical, human and financial improvements. Substantial court fees collected by the courts are transferred to the General Ledger and not directly allocated to the Judiciary.

A.3. Syrian Refugee Crisis

As a result of the Syrian civil war which began in 2011 when pro-democracy protests erupted in Deraa, more than 200,000 Syrians have been killed, and more than 4,086,760 refugees have fled their homes, according to an UNHCR report of September 2015. Lebanon, alone, hosts 1,113 million registered refugees, as estimated by UNHCR, which is approximately 27% of the total Syrian refugee population. The impact of the Syrian refugee crises affects all levels of Lebanese society. With regards to the rule of law, Lebanon's already over-extended judicial system is forced to operate not only with the same budget and resources as it had in 2005 but also with the influx of refugees, which is impacting the criminal caseload. According to an informant, the number of criminal cases in Lebanon has grown by approximately 40% to 50% since the refugee crisis started in 2011. Another informant reported that Syrian refugees account for 40% of the criminal cases in Tripoli; a similar percentage was reported by an informant in Mount Lebanon. The Tripoli Bar Association and Beirut Bar Association reported that their number of legal aid cases increased by more than 40% with the Syrian crisis.

A.4. Emerging Civil Society Movements in Lebanon

Protest movements in Lebanon are part of an emerging power of civil society. In August and September 2015, thousands of young men, women, children and elderly took to the street demanding solutions to the waste management issue. Waste had been accumulating on Beirut's streets since the closure of Beirut's major sanitary landfill site.[8] The inability of the government to solve this problem, coupled with accusations of corruption in waste management sparked a simmering civic movement to demand change.

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[7] http://www.finance.gov.lb/en-US/finance/BudgetInformation/AnnualBudgetDocuments/Documents/Annual%20Budget%20Documentation/2005/Budget%20Law/Budget%20Law/2005%20Budget%20Law%20Tables%20(EN).pdf

[8] The Naameh sanitary landfill site has long-since exceeded its design capacity. Residents of the Naameh community have demanded closure of the site for more than 3 years. In July 2015 they blocked access to the site.

On July 21, 2015, "You Stink" group gathered less than a hundred people. By August 8, 2015, there were more than 6,000 people and on August 23, 2015 around 40,000 Lebanese citizens from diverse and mixed confessional, class and age groups called for long-term commitment from the government to find solutions to the problem.[9] The movement triggered dozen other youth groups calling for government accountability under slogans such as "We Want Accountability," "Akkar Is Not A Dump," "22 August Revolution," "The August 29, 2015 Gathering," "The Youth Against the Regime," and "What Are You Waiting For?". Groups are concerned with government corruption and government accountability each focusing on a different demand.[10] Despite many of these youth groups calling for peaceful demonstrations, there were minor clashes between demonstrators and the internal security forces.

On September 3, 2015, Legal Agenda[11], an NGO funded by the European Union, published an article entitled Children's Rights Violations in the Context of the Civil and Youth Movement (#YouStink), in which it criticized the Lebanese military forces for systematically arresting children under the age of 18. This is the first case in Lebanon in which a group of children are to be tried in the Military Court. According to the Geneva Convention on the Rights of the Child, targeting and arresting children and youth under18 years is a major violation to Human Children's Rights. On September 16, 2015 approximately 35 youth supporting the (#YouStink) movement were arrested. Following legal interventions, all of them were released the same day.

The civil and youth movements bring into focus the challenges faced by the judicial system regarding pre-detention, prosecution, investigation and judicial hearing of juveniles. It also raises questions regarding the jurisdiction of the Military Court.

Additionally, the current youth movement is raising the bar in demanding their rights as citizens. The youth are not reluctant to confront the government and challenge the confessional-based system. This may be an opportunity for the judicial system to garner support for judicial independence while strengthening its institutions with civil society engagement.

B. Overview of the Justice System of Lebanon

B.1. Framework of the Laws

The legal system of Lebanon was greatly influenced during the French mandate and is today a combination of the Napoleonic Code, Civil Law, Ottoman Law and Canon Law.

The Constitution of Lebanon, written in 1926 and amended several times since, guarantees the independence of the judicial power, and the separation and balance of the judicial power with the executive and legislative branches. The Judiciary Law, Legislative Decree No. 150 of 1983, governs the structure and function of the judiciary. The Judicial Organization Law, Decree No. 7855 of 1961 as amended, governs the organization of the courts. Both the Code of Civil Procedure, Decree Law No. 90 of 1983, and the Code of Criminal Procedure, Decree Law No. 328 of 2001 and Decree Law 359 of 2001, regulate the civil and criminal courts, respectively. For several years, there have been numerous

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[9] #YouStink: The environmental youth movement in Lebanon, http://blogs.worldbank.org/arabvoices/youstink-environmental-youth-movement-lebanon

[10] Slew of movements joins Lebanese Youth, September 4 2015, http://www.dailystar.com.lb/News/Lebanon-News/2015/Sep-04/313927-slew-of-movements-joins-lebanese-youth.ashx

[11] Legal Agenda is a Beirut-based non-governmental non-profit organization that addresses issues of legal activism, reform and transformation in the context of social and political change in the Arab world. It also runs an on-line magazine with contributions from the public. The chairman of Legal Agenda is Nizar Saghieh, a lawyer. Legal Agenda receives funding from several sources including the European Union, UNHCR, UNDP, and Swiss Embassy for its various projects.

drafts of laws to increase judicial independence, but the Parliament has yet to seriously consider any draft.

B.2. Structure of the Courts

B.2.1. Courts of General Jurisdiction

The structure of the courts consists of three tiers of ordinary courts for civil cases: trial courts, courts of appeal and the Court of Cassation. Criminal cases have three tiers for adjudicating misdemeanors and two tiers for adjudicating felonies. Trial courts are presided either by a unique judge (single judge) or by a three-judge panel, depending upon the nature and value of the case.

B.2.2. Council of State

Following the French tradition, administrative cases are tried by the Council of State (Conseil d'État), which is empowered to try administrative disputes between individual and the state, municipalities or other public institutions. It also resolves issues concerning local municipal elections. Administrative judges are subject to the Council of State Bureau rather than the High Judicial Council, which governs judges of all ordinary courts. While the structure of the ordinary courts and the administrative court differs, judges in both types of courts have the same status.

B.2.3. Confessional Courts

The confessional courts allow for specific procedural rules affecting personal status issues, such as marriage, divorce, custody children and inheritance, of the Muslim, Christian and Jewish[12] population and individual sects within each religion. However, there is one exception. Non-Muslims are subject to the jurisdiction of the ordinary court system in inheritance cases. The arbiters of confessional courts are religious individuals or lay people, and do not have the same status as judges of the ordinary and administrative courts, nor are they subject to the High Judicial Council. As they are not civil servants, their salaries are paid by various sources. If the religious judges are Christian, the religious communities whom they represent pay their salaries. For Muslim religious judges, their salaries are paid by the Government of Lebanon through the office of the Prime Minister.

B.2.4. Specialized Courts

There are numerous courts with specialized jurisdiction of which the major ones are the following:

B.2.4.1. Military Court

The Military Court has jurisdiction over military affairs as well as over civilians who have allegedly engaged in espionage, treason or other security-related offenses, and, as a result, are the subject of concern to many informants. The arbiters of the Military Court are primarily military officers with little or no legal training, while some civil judges are appointed to the Military Court on a rotation basis. Civil judges may act as prosecutors in military courts.

B.2.4.2. Judicial Council

The Judicial Council consists of five judges who adjudicate cases referred to it by government decree and relating to national security. Its decisions are final.

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[12] The Christian denominations have their own codes, and due to the formerly significant Jewish population of Lebanon there is also a Jewish personal status code. There is a Jewish Court for family matters but it rarely convenes because the Jewish community still living in Lebanon numbers a few hundred. But when this court issues a decision it is officially recognized by the Lebanese authorities and it can be enforced by the civil execution court or it can be stamped by the Ministry of Foreign affairs for execution overseas.

B.2.4.3. Supreme Council

The Supreme Council of seven parliamentarians and eight judges elected by the Parliament hears cases concerning the President of the Republic of Lebanon and cabinet ministers.

B.2.4.4. Constitutional Council

Created in 1990 by the Taif Accords, the Constitutional Council, members of which are selected by the Parliament and the Cabinet of Ministers, reviews the constitutionality of legislation and adjudicates election disputes arising from presidential and parliamentary elections.

B.2.4.5. Other Specialized Courts

Other specialized courts are the Labor Court, Land Court, Juvenile Court, Audit Court, and the Customs Committee.

B.3. Ministry of Justice

In Lebanon, the Ministry of Justice (MOJ) is responsible for, *inter alia,* judicial personnel and judicial training of new judges, and has supervisory control over the administration and budget of the judiciary.

B.4. High Judicial Council

The High Judicial Council (HJC) is to "ensure the proper functioning of the judiciary, its dignity, its independence, and the proper functioning of the courts and their related important decision-making," according to Article 4 of the Law on the Justice System. While the HJC is to function independently from the MOJ, it does not have financial or administrative autonomy.

B.4.1. Composition of the High Judicial Council

The composition of the High Judicial Council is membership based, three of whom are ex-officio members: the first President of the Court of Cassation who, by virtue of the position, is the President of the HJC; the Prosecutor General of the Court of Cassation, who, by virtue of the position, is the Vice-President of the HJC; and the President of the Judicial Inspection Unit. Two judges of the Court of Cassation are elected by the judges of the Court of Cassation, while the remaining five judicial members are proposed by the Minister of Justice to the President. All of these seven judges are to have the title of chamber president or head of department.

B.4.2. Responsibilities of the High Judicial Council

The High Judicial Council is responsible for appointments, rotations, promotions, training and discipline of judges and the performance of the courts. Many decisions of the High Judicial Council are subject to the approval of the Minister of Justice and a signed decree by the President of the Republic, the Prime Minister and the Minister of Finance., There is no systematic training of sitting judges on new and amended laws, new legal concepts or judicial practices. Even though judges are to be rotated between courts every two to three years, they are not provided with training on new areas of law that are assigned to them.

B.5. Public Prosecutors

Prosecutors are considered as judges. Together, they are referred to as magistrates and receive the same training at the Judicial Training Institute as judicial trainees. Thereafter, judicial trainees are assigned as judges to first instance civil courts and are rotated interchangeably. After two years as a sitting judge in a first instance civil court, they may be appointed as a prosecutor. Prosecutors represent the interests of the state in criminal matters.

B.6. Judicial Training Institute

The Judicial Training Institute, created in 1961, is well-established and reputed to be a beacon among the institutions of justice in Lebanon. It has an excellent reputation for providing a high-quality, three-year initial training program to new judges. Recently relocated to a building under the auspices of the Ministry of Justice, the Judicial Training Institute underwent major structural renovation with the support of USAID upon relocation and now occupies five floors with modern training facilities and equipment. Due to its limited mandate, the Judicial Training Institute is only obligated to train judicial trainees only. Their mandate does not include sitting judges.

B.7. Judicial Inspection Unit

The Judicial Inspection Unit is mandated to monitor the performance of judges and court staff of all ordinary courts, the Council of State, and the departments of the Ministry of Justice involved in judicial matters. The President of the Judicial Inspection Unit is immovable until retirement. Operating under the auspices of the Ministry of Justice, the Judicial Inspection Unit focuses its investigative authority primarily on the efficiency of judges and court staff as well as alleged corruption activities among the judiciary.

If, as a result of an investigation, the Judicial Inspection Unit believes a judge should be disciplined, the matter is referred to the three-member Disciplinary Council whose members are appointed by the President of the High Judicial Council and whose decisions are appealable to the High Judicial Council's Disciplinary Commission. While the disciplinary procedures may provide due process to a judge under investigation, the broad category of behavior that is subject to discipline, i.e. "any breach of professional duty, honor or dignity or courtesy" has resulted in arbitrary penalties which gives rise to the perception that the disciplinary process is used as a tool to punish judges who may not have submitted to the requests of others.

B.8. Lebanese Bar Association

The Lebanese Bar Association is divided into two bar associations. The Beirut Bar Association consists of 10,500 attorneys who practice in Beirut, Mount Lebanon, Akkar, South Lebanon, Nabatieh, Baalback, Hermel, and Bekaa, while the Tripoli Bar Association consists of 1,200 attorneys who practice in the Muhafaza of North Lebanon[13].

The Lebanese Bar Association is active in disciplining attorneys, providing legal aid in civil and criminal matters, seeking the independence of the judiciary, promoting human rights, providing continuing education for attorneys and advising parliament on changes in the law. It regularly sends representatives to attend Parliamentary Commission[14] meetings to review draft laws to be proposed to the general assembly of the Parliament.[15] The Beirut Bar Association was created in 1919. Few lawyers in Tripoli at that time did not want to join because they were closer to Syria. In 1921, lawyers in Tripoli lobbied and created the Tripoli Bar Association for the district of North Lebanon. Today, no lawyer may practice in Lebanon without being registered in one of the two bar associations.

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[13] Even though Muhafaza of Akkar is located in the Greater North, it is linked to the Beirut Bar Association as opposed to the Tripoli Bar Association.

[14] There are many Parliamentary Commissions identified by subject matter in which representatives of the Beirut Bar Association participate, when necessary.

[15] During the assessment period, the Lebanese Bar Association issued a statement to the Parliament urging reform of the judicial system to ensure its independence from political power

C. Findings of the Rule of Law Assessment 2006

The ROL Assessment 2006 found that Lebanon has a history of political frailty and weak internal consensus that has led to the capture of political power by unaccountable elites leaving Lebanon vulnerable to external influences. It further found that a political system without sound consensual foundations, such as Lebanon, undermines the rule of law.

Examining the five key elements of the rule of law, legitimacy, order and security, checks and balances, fairness and effective application, in order to ascertain the constraints and obstacles facing Lebanon, the ROL Assessment 2006 found that the most serious rule of law problem in Lebanon is the lack of legitimacy that "plagues not only justice sector institutions, but the majority, if not all, of government institutions." Lebanon "suffers from a fragile political order," with underlying fears about civil conflict in the future. While the order and security problem in Lebanon is not necessarily a threat to individual safety, it undermines the legitimacy of the state.

Checks and balances, which is one of the cornerstones of a democratic system, is not based in Lebanon on separate and equal branches, but rather on the balance of power among the confessional groups. Certain leadership positions with the executive, legislative and judicial powers of Lebanon are allocated to certain confessions thereby subjugating competency to confessional loyalty.

Due to political interference and confessional domination within the judiciary, a public consensus has emerged that fairness does not pervade the justice system that the political and confessional interests prevail over the human rights and civil liberties of the individual, which is the essence of the judiciary to protect.

The ROL Assessment 2006 listed three major problems with regards to the effective application of the laws:

(1) The court system is antiquated and overburdened by an excessive caseload, an understaffed judiciary, and a lack of systematic training for sitting judges;

(2) The laws are outdated due to a dysfunctional Parliament, which continues today; and

(3) The laws are poorly enforced primarily due to political interference in the enforcement process.

In conclusion, the ROL Assessment 2006 found that the greatest deficiency of the rule of law in Lebanon is its legitimacy, reflecting the overall democracy and governance problems that plague Lebanon.

D. Description of SIJCAJ (2008-2010) USAID Rule of Law Program

USAID designed a three-year $6.7 million "Strengthening the Independence of the Judiciary and Access to Justice" (SIJCAJ) Program for the time period 2008-2010. The objectives of SIJCAJ were to address the justice sector challenges, particularly the need to increase the independence and effectiveness of the Lebanese judicial system. SIJCAJ's budget was later amended to include the refurbishment of the Judicial Training Institute and was increased to $8.2 million.

SIJCAJ engaged in eight tasks as a means of increasing the independence and effectiveness of the Lebanese judicial system:

- Developing the capacity and infrastructure of the Judicial Training Institute for initial and continuing training of new and sitting judges;

- Enhancing judicial independence by supporting the Ministry of Justice and the High Judicial Council;

- Supporting the Ministry of Justice's efforts to improve court administration in order to reduce case backlogs, improve case management techniques, and increase transparency;

- Improving access to justice by providing technical assistance to the Beirut and Tripoli Bar Associations;

- Providing sub-grants to enhance public engagement, supporting reform efforts and fostering a culture of respect for the rule of law;

- Developing a long-term strategic plan for the justice sector in Lebanon for the Ministry of Justice;

- Conducting engineering work for the assessment, design and preparation of bid documents for the refurbishment of the Judicial Training Institute and pilot courts; and

- Refurbishing the Judicial Training Institute and the Beirut Execution Court.

While SIJCAJ met many of its goals, there were some SIJCAJ activities that were resisted by Ministry of Justice due to a lack of interest and by the Judicial Training Institute as a result of overlapping donor assistance.

III. PRIMARY CHALLENGES AND FINDINGS IN ADVANCING THE RULE OF LAW

This section provides an analytical response to the following four high-level assessment questions identified by USAID:

- Question A: What is the current level of political independence of the Lebanese judiciary?
- Question B: What are the major challenges that negatively impede the judiciary from carrying out its public mandate?
- Question C: What are the political and governance considerations that USAID should take into account in providing rule of law assistance?
- Question D: What elements of Lebanon's judicial system, if any, contribute to the rise of violent extremism and what are ways of addressing them?

The assessment team reached its findings by conducting interviews with more than 70 Lebanese judges, prosecutors, attorneys, parliamentarians, law professors, and representatives of civil society in Beirut, Tripoli, Baabda, and Zahle and by extensive document research.

A. What is the Current Level of Political Independence of the Lebanese Judiciary?

The current level of political independence of the Lebanese judiciary is very low and has remained unchanged since the Civil War from1975 to 1990, according to several key informants.

While there were many instances supporting this fact, the low level of judicial independence is aptly demonstrated with one anecdote. A senior judge told the assessment team that he had to obtain approval from the Ministry of Justice for all of his foreign travel, professional, and personal. It is a requirement for all judges in Lebanon. While not strictly enforced, it nevertheless demonstrates the power the executive branch has over the judiciary, which, by virtue of the Lebanese Constitution, is not a third branch of government, although it is to have powers equal to those of the executive and legislative branches. Relative subordination of the judiciary to the other two branches of government is inherent in most parliamentary regimes.

Article 20 of the Constitution states: "The judicial power shall be exercised by courts of various degrees and jurisdictions. It shall function within the limits of an order established by the law and offering accordingly the necessary guarantees to judges and litigants. The law shall determine the conditions and limits of the judicial guarantees. The judges shall be independent in the exercise of their functions."

While placed under the authority of the Ministry of Justice, similar to many European countries, Lebanese judges do not enjoy the privileges of independence that their judicial counterparts in similarly situated countries take for granted.

Founded on the French legal and justice system, given that Lebanon was placed under a French mandate from 1918 to 1943 following WWI, the tribunals prior to the Civil War which began in 1975, were exercised by a mixture of Lebanese and French judges[16], which gave the Lebanese judges excellent training in judicial independence, ethics, and competency. Not only was the judiciary a respected

[16] The "Tribunaux mixtes (French &Lebanese Judges) " were created during the French mandate and stayed for a short time during the transition after the independence of Lebanon which took place in 1943.

institution, but also the judicial training institute of Lebanon was exemplary in the Middle East and North Africa. One informant told the assessment team that while the laws prior to the Civil War were less protective of the judiciary, judges had considerably more independence before the Civil War.

The Civil War from 1975 to 1990 ravaged the judiciary, its infrastructure and its professionalism. Courthouses were pillaged or burned, thousands of case files were destroyed, and logistical issues in ensuring the functioning of the courts were overwhelming. While at the same time, lawsuits filed were dramatically increasing, resulting in an overwhelming backlog, which has yet to be resolved today.

The Lebanese citizenry began to lose confidence in its justice system. Instead, they turned to a version of private justice practiced in militia-controlled parallel tribunals that was seen as more efficient, albeit not always more just. Concurrently, the parliament of Lebanon did not function effectively and failed to legislatively address many issues arising from the Civil War. The parliament's shortcomings caused even more discontent among the citizens toward the efficacy of the justice system.

Some key informants noted that the Taif Agreement, while resulting in the cessation of hostilities, also caused the strengthening of confessions in the governance of Lebanon, including its judiciary. As a result, key informants expressed that confessional loyalty had become a more important factor than competency in appointing, rotating, and promoting judges to leadership positions. The balancing factor, however, is that the recruitment process for becoming a judge in Lebanon is based solely upon competency and integrity of the candidate with no consideration of the candidate's confession, according to a substantial majority of the informants. Interviewees throughout the country told the assessment team that "there is political interference in judicial selection."

The Syrian military occupation and political influence from 1990 to 2005 further exacerbated the demise of judicial independence, rendering it meaningless as the Syrian and Lebanese security apparatus gained considerable influence. In fact, judges, particularly criminal law judges, relied on certain politicians for their promotion, rather than seeking independence from the legislative branch. Citizens no longer viewed judges as neutral arbiters as their sovereignty was compromised.

While judicial corruption, primarily improper influence over the judiciary, began in earnest during the Civil War, it has slowly and consistently risen. According to one informant, corruption has "infiltrated our judiciary, our politicians and public servants."

With this fundamental and critically important historical backdrop, it is important to note that the formal structure of the justice system does not guarantee judicial independence. To the contrary, it inherently produces judicial dependence on the executive branch and improper interference by the legislative branch.

While the level of external interference in the judicial decision-making process is very high according to many informants, the degree to which judges accede to the wishes of a politician, a confessional leader, family and friends, and other judges in contravention of the applicable law and facts of the case has yet to be determined. Informants indicated that the criminal judiciary is more receptive to external interference than the civil courts.

The assessment team heard numerous examples of judges, particularly in criminal court cases, receiving calls on a routine basis from politicians, confessional leaders, attorneys, friends, family, or even other judges to influence the detention of a suspect, the investigation of a crime, or the trial of the accused. A judge told the assessment team that "we are bombarded with requests from outsiders who would prefer to influence judges rather than let justice take its course." While many of these improper external influences concern criminal cases that are often minor, the defendants invariably include a

constituent of the politician, a devotee to a confessional leader, a client of an attorney, a friend, or family member of a judge who seeks certain favors.

As the significance of the criminal cases increases, there is considerably more political interference by politicians and others representing both sides of the case. Such interference has been justified based on the societal and political context within which judicial decisions are made. According to several informants, it is the duty of the judge to have all the essential facts, some of which may not have been presented by either party to the case. Thus, many believe that the information the judge receives should not be limited to the confines of the court files and court hearings, but should also include that which is presented outside the courthouse, particularly if it assists the judge in reaching the truth. Additionally, recognizing that one side of the case is attempting to influence the judge gives rise to the other side to "battle for the truth" and balance the interests presented to the judge.

One informant told the assessment team that receiving information from external sources may not be legally correct, but if it helps the obtainment of all the evidence, then it does not hinder the independence of the judge.

According to informants, when human rights issues arise in the criminal justice process and appear to be abridged, politicians and others invested in the pursuit of human rights believe they have the obligation to convince the prosecutor and the investigating judge not to press charges as there are issues of due process, the right of legal representation, as well as other human rights issues affecting the accused and victims.

In administrative cases before the Council of State, judges render decisions based on the merits of the written briefs as oral pleadings are not allowed. Thus, politicians and others justify reaching out to administrative judges as they believe it is essential for the judge to have the benefit of oral persuasion.

Corruption within the justice system does not always involve a judge. The assessment team was told about the antics of attorneys who may bribe another attorney to lose a case, and of court clerks who are bribed to misplace files.

Some well-known judges will not take any calls from politicians and others, and are considered off limits. Even those who do take such calls will not succumb to external influence, often responding with "inshallah" (*God willing*) at the end of the improper conversation. However, there are judges who will accede to the request of the politician, the confessional leader, attorneys, family or friends, or other judges either out of a desire to please or because they are genuinely fearful of repercussion, given that the appointment, rotation, and promotion process of judges in Lebanon is a highly political one.

Interestingly, there are two Criminal Code sections, 357 and 358, which establish a three-year sentence for interfering in the judicial process. However, according to a group of informants interviewed by the assessment team, these two sections of the Criminal Code have never been enforced.

Abiding by one's own integrity and basing a judicial decision solely on the facts and applicable law can result in a transfer to an undesirable court location or thwart a potential promotion. Thus, by pleasing certain politicians or confessional leaders, judges are well aware that they can receive monetary and in-kind gifts, as well as greater protection or better positions, such as being rotated to a more desirable court location or nominated to a key position in the government. Examples were given of politically connected judges being promoted to executive governance postions.

Given the high level of political interference with the judiciary, it is important to note that the results of such improper interference could have a more devastating impact on the judicial decision-making process. Remarkably, the reputation of the independence of the judges remains solid contradicting the

view of most informants that the justice system itself is not independent. Most Lebanese judges are considered by those within the legal and judicial communities to be of high caliber, competent, and ethical. "We have very good judges, but the system hurts their independence," stated one informant. According to several informants, those judges who are prone to unethical practices are well known.

Public perception of the judiciary is in sharp contrast to the view held by the justice community. Public perception of the judiciary is extremely low. Perception surveys reviewed by the assessment team showed that the public regards the justice system, and the judges, with disdain claiming that the system is corrupt. The public believes that the majority of judicial decisions are based not on the facts of the case and applicable law, but on the improper external pressure exerted by others on judges. As one informant explained to the assessment team, the loser in a court case will often believe that the case was lost due to corruption rather than to the merits of the case. Meanwhile, the winning party will undoubtedly think success was based on his ability to influence the judge through his political or confessional representative, a friend, or family member that contacted the judge on his behalf, or that important unnamed intermediary bribed the judge securing the desired outcome. Indeed, informants told the assessment team that it is not uncommon for a parliamentarian to pretend to call a judge to influence him in front of a person whose vote he desires, and later take credit for the favorable judicial decision. Thus, it is not surprising to judges to hear that the public has little faith in the independence and integrity of the judiciary. Evidence for the magnitude of interference is lacking, and the popular perception that it is widespread may be overstated.

While there is no dispute that pressure is exerted on judges, there is a wide disagreement between the legal and judicial communities and the citizenry as to the judges' behavior in response to such pressure.

A minority of informants did believe that there were no major challenges in the judiciary regarding its independence, nor are there political and governance considerations that should be taken into consideration in enhancing the independence, competency, and effectiveness of the judicial system. Furthermore, some informants believe that the judicial system does not give rise to extremism, as there is clear evidence of guilt for those who are arrested. These informants assert that there is not significant case delay, and evidence to the contrary is a result of the exaggeration by attorneys.

An argument can be made that, as a result of the paralysis of the government of Lebanon, including the abysmal performance by the parliament, the judiciary has an opportunity to assert itself and to enhance its own independence by resisting political influence.

The most essential criteria in determining the independence of a judiciary is the level of control judges have over their own institution and their individual decision-making process. The criteria to determine such level of independence are set forth in, *inter alia*:

- Recommendations of the Council of Europe on Judges: Independence, Efficiency and Responsibilities 94(b), 2010,
- United Nations Basic Principles on the Independence of the Judiciary, 1985,
- The Bangalore Principles of Judicial Conduct, 2002,
- Cairo Declaration on Judicial Independence of the Second Arab Justice Conference "Supporting and Promoting the Independence of Judiciary" 2003, and
- Beirut Declaration, Recommendations of the First Arab Conference on Justice, 1999.

The Recommendations of the Council of Europe which take into account the United Nations Basic Principles ensure that justice systems are structured so as to provide judicial protection of the civil liberties and human rights of all citizens, and that fair trials are conducted by a competent and impartial court. Indeed, the Recommendations underlie the fundamental principle that an independent judiciary is the *right* of citizens rather than a *privilege* of judges.

The formal structure of the justice system of Lebanon, which produces political interference, is the major cause of judicial dependence on the executive and legislative branches of government.

A.1. Composition of the High Judicial Council

The Recommendations of the Council of Europe include several provisions that collectively state that councils for the judiciary or other authorities deciding on the selection and career of judges should be independent of the executive and legislative powers and that councils for the judiciary are to be independent bodies composed of at least half of its members as judges chosen by their peers from all levels of the judiciary.

While all ten members of the High Judicial Council are judges, only two members are selected by 50-members of the Court of Cassation. According to the Council of Europe's recommendation, at least six of the ten judges on the High Judicial Council should be selected by all 550 the judges. Furthermore, requiring that all appointees to the High Judicial Council be chamber presidents or heads of departments disregards the notion of "peer" appointment "from all levels of the judiciary," as recommended by the Council of Europe.

A.2. Appointment, Rotation and Promotion of Judges

In Lebanon, the executive branch continues to exert significant influence over the appointment, rotation, and promotion of judges. While the High Judicial Council has the power to nominate judges for appointment, rotation, and promotion, the Minister of Justice must approve such nominations. A decree must also be signed by the President of the Republic, the Prime Minister, and the Minister of Justice and published before the nominations can take effect.

The procedures for resolving a dispute between the High Judicial Council and the Minister of Justice regarding nominations have been amended, thereby providing the High Judicial Council the right to veto the Minister's decision by a vote of seven members. However, it is difficult to implement, given that eight out of the ten members of the High Judicial Council are appointed by the executive branch, particularly the Minister of Justice, given his imprimatur on all chamber presidents. Furthermore, rotations cannot take effect until a decree by the Council of Ministers is signed and published in the official gazette.

Additionally, the criteria for appointing, rotating, and promoting judges are not clear, objective, and transparent. Many informants report that this results in questionable decisions by the High Judicial Council that appear to be arbitrary. Rather than rotating and promoting judges solely on objective criteria relating to competency, performance, and seniority, the High Judicial Council and/or the Ministry of Justice has been criticized by the press and the Civil Society Organizations (CSOs) for rewarding judges based on personal relationships and has denied promotion to those who may not have submitted to political authorities in particular cases. Such arbitrary processes cause the judge to be vulnerable to executive and legislative influences and can lead even the most ethical of judges to pause when deciding certain cases.

A.3. Discipline and Tenure of Judges

According to the Recommendation of the Council of Europe, "security of tenure and immovability are key elements of the independence of judges. Accordingly, judges should have guaranteed tenure until a mandatory retirement age, where such exists." The Law on the Justice System states that the term for judges is until the age of 68 years; however, according to many informants, judges can be removed arbitrarily.

Judges are disciplined if they breach their "professional duty, honor, dignity or courtesy." The Disciplinary Council of the Judicial Inspection Unit conducts the disciplinary proceedings and its decisions may be appealed to the Disciplinary Commission of the High Judicial Council, which, according to Article 95 of the Law on the Justice System, has the power to remove a judge without the right of appeal.

Given these provisions in the Law on the Justice System, the process by which a judge can be disciplined and ultimately removed can be punitive and based on arbitrary reasons rather than through objective criteria and a transparent process. To add insult to injury, according to informants, the decision of the High Judicial Council is effective "the minute it is reported to the concerned person in an administrative way."

A.4. Financial Autonomy of the Judiciary

The Ministry of Justice is responsible for the financial issues relating to the judiciary, and incorporates into its own budget the budget of the judiciary. Neither the High Judicial Council nor the ordinary courts have the right to propose and execute their own budgets that would strengthen the independence of the Judiciary. The assessment team was informed during its meetings that the Court of Cassation was given an independent budget by a joint decision of the Minister of Finance and the Minister of Justice. Consequently, the 2016 budget will include a line item for the Court of Cassation. The President of the Court will propose the budget and oversee its expenditures, which is a step in the right direction. (Refer to Annex VI for details).

A.5. Administrative Autonomy of the Judiciary

According to Article 15 of the Law of the Justice System, the President of each court serves as the highest administrator responsible for his/her court. Each President has the responsibility to manage court operations and to oversee personnel, judges and clerks. The President also has the responsibility for the assignment of cases to judges, depending upon the type of case and the workload of judges. The High Judicial Council does not have jurisdiction over the administration of the courts, or the management of cases. This, along with the dramatic increase in the number of cases, many of which are complex due to the Syrian influx of refugees, the inadequate number of judges, and antiquated courts, has led to extremely long delays in the judicial process. Many informants report that this undermines the rule of law.

A.6. Findings

1. The current level of political independence of the Lebanese justice system is low due to judicial dependence on the executive branch and improper interference by individuals external to the judicial case, such as parliamentarians, confessional leaders, attorneys, family, friends, and other judges.

2. The legal framework of the justice system is the major cause of judicial dependence on the executive and legislative branches of government.

3. While the justice system is not independent, a majority of Lebanese judges have the reputation within the legal and judicial communities of being independent due to their competency and integrity, although this is in sharp contrast to the public perception of judges which is that most judges put their self-interests above their obligation to protect the civil liberties and human rights of all citizens. Nevertheless, the legal and judicial communities are committed to reforming the system.

B. What are the Major Challenges that Negatively Impede the Judiciary from Carrying out its Public Mandate?

There are a number of challenges that impeded the judiciary from carrying out its public mandate including political interference, poor judiciary infrastructure, low financial, human, technical and administrative resources, and, most recently, the Syrian refugee crisis within the country.

B.1. Political Interference & Current Political Situation

The judicial system is subject to the power play between the legislative and the executive branch of government. The powers between the parliament and the executive branch are not balanced due to confessional influences, whereby the heads of the legislative and executive branches represent different confessional groups which undermine an effective balance of power in favor of sectarian accommodation. The lack of separation of powers allows for political interference at different levels in the justice system and impedes the judiciary from fulfilling its public mandate. The rotation of judges, new appointment of judges, the Judicial Inspection Unit, and lack of governmental authority and control over certain geographic areas across Lebanon are all elements associated with political interference and its impact in the administration of "equal justice for all."

B.1.1. Appointment and Rotation of Judges

According to a senior judge, there were approximately 375 judges in 1975. Official reports provide similar figures, recording about 400 judges in the justice system in 1997.[17] Since 1975 until 2015, the number of judges has increased by approximately 30%, reaching a total of approximately 550 judges[18] in 2015, while the population almost doubled. The result is an understaffed judiciary system that is unable to meet its needs. Over the last two years, the presidential vacuum has curtailed the function and capacity of the legislative branch to approve new judicial appointments. The void left by retiring judges, particularly from leading positions, has not been filled; therefore compounding the problem of an understaffed judiciary. According to a judge in one of the chambers, she had to deal with double the load of case files in the last 7 months due to the lack of appointment for a retired judge working in the same chamber.

In Lebanon, unlike other countries, it is unknown when and how the rotation of judges takes place. It can take place every few years or even twice in one year. The last official agreement on rotation took place in 2009. Since then, only minor rotation took place for non-key positions. Consequently, the unknown timing and duration of judges' rotation negatively affects the performance and productivity of judges.

There is continuous fear and concern among the judges that if they don't comply with political pressure, they are likely to be transferred to a distant location, demoted, or impeded from getting a desired promotion. In interviews with former MPs and some sitting judges, they attested that the fear of demotion or transfer is a "perceived" fear more than an actual one. There are, however, other judges and lawyers that argue differently. According to an informant, one judge granted citizenship for a child born of a non-Lebanese father which resulted in the judge being demoted as President of a trial court to a three-member panel tribunal. There are others within the justice system that see the rotation of judges as something positive that would allow judges an opportunity to learn about different courts and cases, given that the rotation is carried out every two or three years.

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[17] Chibli Mallat, Lebanese Judicial System, Lebanon Report, 1997.

[18] 550 judges is the number at the time of the assessment; however, the number of judges varies according to retirements and new intakes.

An important issue raised was the appointment of judges outside their specialties. From more than one key informant, we heard cases in which judges with graduate law degrees from Ivy League universities specializing in real estate, criminal law, commercial law, or other fields, were not assigned to courts in their area of specialization. Sometimes several years passed before they were able to put their specialized knowledge to use.

The assessment team deliberated on the findings regarding specialization and periods of rotation recommending that the High Judicial Council extend the rotation period to 6 years as well as assign judges based on merit and specialization. This adjustment to the rotation period and bases for assignments enables judges to better utilize their expertise and experience gained during the lengthened rotation period to deliver judgments more effectively and efficiently. An informant from the judicial branch echoed this sentiment. It could also be an incentive to withstand any political pressure they might face especially that Legislative elections take place every 4 years.

B.1.2. Case Backlog

The overwhelming case backlogs continue to be an important challenge that impedes the judiciary from carrying out its public mandate. Interviews with judges, United Nations (UN) agencies, and others, have confirmed that case backlog is a major challenge attributed to the political situation and conditions within the country. Other contributing factors also include the increase in the number of cases, inadequate number of judges and court personnel, absence of judicial mediation, absence of plea bargaining for criminal cases, seven causes for appeal, and the inadequate and overburdened nature of the court system.

Over the last two years, the void left by retiring judges, particularly from leading positions, has not been filled; therefore resulting in an understaffed judiciary that is not able to keep up with the massive backlog of cases. This was further exacerbated by the increase in the number of cases from the Syrian refugee crisis combined with the absence of infrastructure and qualified human resources at the court level. In 2013 and 2014, there were approximately 194,000 cases, around 40% of which are pending. In the Court of Cassation alone, there were approximately 6,000 cases (refer to Annex X for details). In 2015, the number of judges is estimated at 550, which is not enough to sufficiently cover the 35 judicial districts. According to the High Judicial Council, Lebanon needs at least 1,000 judges and prosecutors to cover the 4,500,000 citizen and about 1,500,000 foreigners living in Lebanon. Now with the presence of 1,113,000 Syrian refugees, the system needs at least 1,200 Judges. Illustrative of the increase in cases is the Mount Lebanon experience where cases have risen from a pre-Syrian crisis estimated 60,000 cases annually to 95,000[19] cases in 2014.

Another reason for case backlog is the onerous and complex civil court procedure. The court proceedings rely on hand-written testimonies, which are both time consuming and error prone. The judge may genuinely not recall all of the testimony in his or her summary, or may intentionally distort the oral testimony. Clerks may not write correctly the judge's summary. Consequently, this contributes to both case delay and case backlog because trials take longer than they would if testimony could be recorded.

Unlike other countries, Lebanon does not have a system of plea bargaining in criminal cases. In the United States, the majority of criminal cases are settled by plea bargain rather than jury trial; thereby getting their sentence reduced without going through the court system. Conflicting parties have to go to court, which may take years before the final sentence is issued. In addition to this, there are seven causes of action to appeal to the Court of Cassation, all of which result in case delay and case backlog.

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[19] This is a figure provided by the judges interviewed at the Court of Baabda

Another reason for case backlog is where disputing parties will suggest "going to court" rather than resolve the dispute as it is well known that a court case will take years to resolve. This is particularly for civil cases, such as commercial, banking, and real estate. Some of the judges made reference to submitting a civil case then stopping the proceeding by filing a case in the criminal court because according to the law, criminal cases precedes civil ones. This can be a source of case backlog because the civil case has to wait for the sentences issued in the criminal court before the civil case is resumed.

B.1.3. Judicial Inspection Unit

The Judicial Inspection Unit (JIU) serves as a quality assurance unit for the judiciary, with a mandate to monitor the performance and ethical conduct of the judges, the court staff in the civil and criminal courts, the Council of State, as well as the different departments of the Ministry of Justice.[20] The JIU has an important role in monitoring, evaluating, and investigating judges and forwarding complaints to the disciplinary committee of the High Judicial Council for further investigation. The Judicial Inspection Unit has 9 inspectors to cover 35 judicial districts and follow-up on approximately 550 judges and more than 1400 clerks of the courts. The number of staff is woefully inadequate for the task, and when combined with a low work ethic the observation was that the JIU is overwhelmingly inefficient. According to key informants, the Judicial Inspection Unit is not performing effectively or efficiently. Judicial assignments to the JIU are permanent (not subject to rotation) with judges assigned based on confessional divisions and political considerations contributing to a lack of accountability and transparency in the administration of justice.

Informants commenting on the JIU ranged widely in their views of the institution. One recommended that the JIU have more power in inspecting/evaluating judges. Others said that the JIU can provide accountability of all the judges.

One senior informant noted that files of judges in the JIU are inadequate and do not contain all of the information relating to each judge, such as training courses taken, degrees received while the judge is on the bench that should be taken into account for rotation or promotion purposes. A file should be kept for each of the 550 serving judges. These files are a source used to inform rotation, and if the files do not adequately reflect the judges' academic and performance achievements a good judge can be overlooked and not acknowledged and promoted.

There is a perception among citizens and judges that certain areas of the judiciary are protected from inspection. According to some informants, some judges known to take settlements or bribes were offered an exit option of resigning from the judiciary keeping all the advantages and benefits of a retired judge while avoiding prosecution. Informants concede that the inefficiency of the JIU means that there is no oversight of judges.

B.1.4. Lack of Control over Geographic Areas

There are areas in Lebanon that are not under the authority of the Lebanese government. The lack of authority and control over certain areas across Lebanon ((Palestinian camps, Syrian border areas and Hezbollah-controlled areas,) impede the judiciary in administering "equal justice for all." Consequently, any person with wrong doing affiliated or seeking refuge in these areas is unlikely to be brought to justice except through political coordination between the Internal Security Forces, General Security, and the Lebanese Secret Services, among other security agencies. This undermines the credibility of the judiciary as well as negatively affects public opinion when it comes to the administration of justice. For example, four judges were assassinated at the Court of Saida in 1996 in South Lebanon. To date, the

[20] World Bank Report 2013

judiciary could not bring to trial the perpetrators who are believed to hide in a Palestinian refugee camp in South Lebanon.

B.2. Poor Judicial Infrastructure

According to everyone interviewed, the poor infrastructure contributes to inefficient and ineffective judiciary as well as lack of respect for the justice system. This is evident in the all court houses and most notably the court house of Baabda (Mount Lebanon) and Zahle (Bekaa). The weak infrastructure, shabby setting, lack of judicial chambers, absence of air conditioning, uncomfortable public seating, crowded clerks' offices, and the absence of filing cabinets, storage rooms, technological equipment and library in each court house all reflect poorly on the judiciary and makes the job of the judges and clerks very difficult.

The poor infrastructure not only affects the performance of the judges, but also reduces the judges' efficiency in processing cases. Many judges and prosecutors said they have to work extra hours from their own homes due to unsuitable working conditions and lack of technical tools needed to review case files. Other judges spoke about sharing the same office with two or three other judges where they conduct hearings with defendants in criminal cases. All of these factors pose a challenge to judges' ability to seek justice productively and efficiently.

The Beirut court house in Palais du Justice has been undergoing rehabilitation for the last 5 years with 2 more years anticipated before completion. The rehabilitation is to strengthen the structure of the building that had been under threat of collapse. The rehabilitation does not add amenities, or provide a more comfortable and suitable working environment for judges and staff. Many judges and lawyers complained of difficult working conditions during the winter and the summer months working without heating or air conditioning. The Baabda court was rehabilitated within the last 2 years based on an assessment done 9 years earlier. Despite a better appearance, poor infrastructure remains a problem in the court rooms, judges' chambers, clerks' offices, plus there is a general lack of filing cabinets. The handling of case files is outdated and inefficient. The same can be said about the court houses in Zahle (Bekaa), Rachaya (Bekaa), Baalbeck (Bekaa), Tyr (South Lebanon), and Nabatieh (South Lebanon).

In response to the poor conditions, the court of Byblos entered into a public private partnership (PPP) led by the Beirut Bar Association and the CEO of Byblos Bank in collaboration with the MOJ to build, equip and furnish a new court house scheduled for completion in October 2015. Discussing the PPP option with the Council of State, there was reference to other Lebanese banks that were approached to refurbish the commercial court, but declined for fear of conflict of interest that might arise in the future. Application of PPP as a mechanism for court rehabilitation is possible, but conflicts of interest need to be considered and avoided.

B.3. Limited Financial, Human, Technical and Administrative Resources

All the interviews carried out confirmed that there are very limited financial, human, technical, and administrative resources available to the judiciary.

B.3.1. Financial Resources

B.3.1.1. 2005 Budget

Lebanon's Parliament has not approved a budget since 2005. The government and the judiciary since then have been required by law to adhere to the level of spending approved in 2005. Each year, the same budget is assigned to MOJ. According to what is spent, the budget is balanced at the end of the year, thereby leaving the MOJ short of funds because of the budget's inability to meet its current needs. According to the United Nations Development Programme (UNDP), the MOJ cannot even afford to

maintain staff persons hired on particular projects. In the case of the automation project, they had to host the two staff persons hired by European Union (EU) and UNDP at the Office of Minister of State for Administrative Reform (OMSAR) because of budget issues. Most of the people interviewed referred to the small and inadequate budget allocated to the MOJ, estimated at less than1% of the overall government spending.

B.3.1.2. Independent Budget

The judiciary, with the exception of the Council of State, does not have an independent budget. The budget of the courts and the High Judicial Council is under the budget of the MOJ. Any spending has to go through the MOJ and be approved by Ministry of Finance (MOF). Consequently, the absence of an independent budget limits the capacity of the judiciary in carrying out its duty and responsibility vis-à-vis the public. A very basic problem could take weeks to be fixed in particular courts or clerk offices (e.g. broken down air conditioning, land line telephone, printer ink cartridge, etc.) because it requires approval from the MOJ. For more serious issues such as pre-trial detention, due process, court proceedings, and budget constraints can affect the administration of justice. For example, following the Nahr El Bard conflict, the HJC had to wait for three years to acquire the necessary approvals to construct a court house next to Roumieh to put approximately 400 Islamist detainees on trial at a given time. According to the HJC, if they had control over their own budget, they would have taken the necessary steps to do this much earlier. Unlike the HJC, the Council of State has its own independent budget since the 1940s. When speaking with President of the Council of State, he articulated that an independent budget provides independent decision making for simple to more complicated matters. For example, the president does not have to reach out to the MOJ to get approval to any spending required at the Council of State. Recently, the Court of Cassation received autonomy over its own budget. An independent budget for the courts is a key issue for both the productivity and independence of the judiciary.

B.3.2.1. Lack of Qualified Human Resources

Everyone interviewed discussed how the lack of qualified and sufficient human resources among the judiciary including judges, prosecutors, and clerks impedes the judiciary in administering justice. A key informant underlined that during the civil war, many attorneys became judges because they had been registered as attorneys for 10 years despite having no real work experience. In 2015, the number of judges is estimated at 550 (10% of which are prosecutors), which is not sufficient to cover all 35 judicial districts. In an interview with the Prosecutor for Mount Lebanon, he highlighted that there are 9 prosecutors in the Court of Baabda (Mount Lebanon) and around 120 judges for approximately 2 million people. This is not accounting for the Syrian refugee population and the added pressure they have on the justice system.

B.3.2.2. Low Salaries

The low salary for judges does not incentivize good lawyers to join the judicial sector. According to an informant, three years ago the MOJ and the HJC agreed to open the door for enrollment in JTI for lawyers with 6 years of experience. Following the interviews, none of the candidate lawyers succeeded in the exam and it is believed that low salaries caused successful lawyers to refuse to file applications for the exam. Many sitting judges resort to teaching, writing books, etc. to earn extra income, which distracts judges from doing their work. In 2011, a bill passed in Parliament to double the salaries of judges. The starting monthly salary of a trainee judge was increased from $600 to $1,050 (trainee judges have no grade levels before they finish the 3 years of training). Following the 3 year training at the JTI, the starting salary for a judge was increased from $1,400 to $2,700.[21] Depending on the grade level, salaries can range from $2,700 to $6,200 for a very senior judge. This is accompanied by the mutual fund for judges, facilitated housing, personal loans, and medical coverage. While politicians praise the level of new salaries, many judges believe that it is still insufficient, considering their responsibilities. According to many judges, the salaries are part of their immunity so they don't need any service from the political branch when they are materially satisfied.

Grade	Present salary	New salary
1	LL 2.10 million ($1,400)	LL 4.10 million ($2,733)
2	LL 2.26 million ($1,505)	LL 4.35 million ($2,900)
3	LL 2.42 million ($1,611)	LL 4.60 million ($3,067)
4	LL 2.57 million ($1,716)	LL 4.85 million ($3,233)
5	LL 2.73 million ($1,821)	LL 5.10 million ($3,400)
6	LL 2.89 million ($1,927)	LL 5.35 million ($3,567)
7	LL 3.05 million ($2,032)	LL 5.60 million ($3,733)
8	LL 3.21 million ($2,137)	LL 5.85 million ($3,900)
9	LL 3.36 million ($2,243)	LL 6.10 million ($4,067)
10	LL 3.52 million ($2,348)	LL 6.35 million ($4,233)
11	LL 3.68 million ($2,453)	LL 6.60 million ($4,400)
12	LL 3.84 million ($2,559)	LL 6.85 million ($4,567)
13	LL 4.00 million ($2,664)	LL 7.10 million ($4,733)
14	LL 4.15 million ($2,769)	LL 7.35 million ($4,900)
15	LL 4.31 million ($2,875)	LL 7.60 million ($5,067)
16	LL 4.47 million ($2,980)	LL 7.85 million ($5,233)
17	LL 4.63 million ($3,085)	LL 8.10 million ($5,400)
18	LL 4.79 million ($3,191)	LL 8.35 million ($5,567)
19	LL 4.94 million ($3,296)	LL 8.60 million ($5,733)
20	LL 5.10 million ($3,401)	LL 8.85 million ($5,900)
21	LL 5.26 million ($3,507)	LL 9.10 million ($6,067)
22	LL 5.42 million ($3,612)	LL 9.35 million ($6,233)

Figure 1 Judges Salaries Increase in 2011

B.3.2.3. Working Hours

The working hours for judges are from 8am to 2pm with two months of judicial holiday in July and August. The rest of the time, the judge works on case files. Due to the poor conditions of the court houses, many of the judges work at home. While some judges work long hours, there is a common citizen perception that many judges do not. The typical judge serves around 2 days per week at the courts.

B.3.2.4. Limited Human Resources

The absence of good and qualified human resources also affects the efficiency of the court proceedings. The system does not currently provide the court with interns to assist the judge and the clerks in their duties. A limited judicial internship program exists as part of the JTI judge-training curriculum that assigns interns to the courts. The number of interns provided per year will not exceed 25 or 30 (depending on the annual intake of judge trainees under the JTI program). The HJC President approved the concept proposed by the team of a broader internship scheme that would draw on interns from prominent Lebanese law schools.

In addition, clerks and court support staff are civil servants and are assigned on a confessional basis. As a result, according to one judge, many support staff members are unqualified or incompetent, but cannot be replaced. Furthermore, the files of judges in the MOJ and JIU are inadequate and do not contain all of the information relating to each judge, such as training courses taken or degrees received while the judge is on the bench. Rotations do not systematically consider judge qualifications or performance as

[21] Yousef Diab, Law to Improve Judges Salaries Draws Praise, Daily Star, September 10 2011, http://www.dailystar.com.lb/Article.aspx?id=148418

this information is not easily available. In short, good judges may be overlooked and not acknowledged and promoted.

B.3.1. Technical and Administrative Resources

B.3.3.1. Absence of Automation

The absence of automation within the justice system (MOJ, HJC, court houses, etc.) affects the transparency and impinges on the ability of the Lebanese justice system to function efficiently. Everything is written and filed manually. Case files are not digitized, and hence not easily accessible. All the case files are in manila folders that appear filed in disarray with no appropriate numbering, archiving, or security. Due to the poor conditions of the court houses, many judges prefer to work from home and commonly carry the original files with them to their homes possibly jeopardizing the security of the file.

The lack of a digitized case files opens opportunity for misplacement (or malfeasance). A prosecutor confirmed the misplacement of depositions, statements, or other crucial papers that are often found in someone else's case files. During a tour of Baabda court, the filing room for civil cases was found to be completely disorganized. The European Union (EU) has addressed the case file problem by funding a modernization of the Lebanese Justice System. Over the last 5 years, the EU has spent around 10 million Euros automating the Beirut Court system through an extension of the Ministry of Justice's Information Technology (IT) Platform. The EU support is for software alone, and not the hardware. One result is the establishment of a user-friendly court system set in place for litigants, attorneys, judges, and court staff. The automation of the Beirut Courts project is implemented and executed by the Office of the Minister of State for Administrative Reform (OMSAR) in close collaboration with the Ministry of Justice. In an interview with the team responsible for this project, it is evident that the system will be implemented at the court Beirut once the Palais du Justice rehabilitation is completed. An extension of the system to Jdeideh and Jounieh is planned. The required installations for the system in Jdeideh and Jounieh are complete. Once the system is tested in Beirut, it will be installed in the other two court houses. The roll out of the system focuses on digitizing active cases, but will not deal with digital archiving of old case files. Digital archiving of old case files requires far more financial and human resources that might be done by a private contractor through a PPP mechanism.

B.3.3.2. Lack of Technical Equipment

The judicial system lacks technical tools and new technologies. According to all the judges interviewed, they lack computers, laptops, printers, scanners, photocopy machines, tape recorders, etc. needed to perform their job. In more than one office, the team would find a printer with no computer, a desktop with no printer or scanner, or in some cases no computer at all. Almost everyone interviewed said they use their own resources at home, as the HJC does not have resources to procure equipment for everyone. Furthermore, a common problem was that the absence of the voice recorders to be used during the hearings resulted in long, tedious, and very time consuming trial process. According to the Prosecutor of Mount Lebanon, tape recorders are not allowed by law. The deposition and court proceedings have to be hand written and signed by the clerk. The law, however, allows for other improved technologies that could be used to speed up the writing and documenting process as long as it is all accurately typed, printed, and signed. This could reduce working hours on each file and it can give better transparency of the minutes and findings of depositions during the hearings for both civil and criminal cases.

B.3.3.3. Lack of Access to Centralized Legal Resources

Neither the High Judicial Council nor any of the court houses or the judges' chambers in any of the courts visited have access to a central library with books, journals, references, and resource material on civil and common laws in criminal or civil cases that can be utilized by the judges in their work. Furthermore, they don't have access to on-line resources or subscriptions to judicial databases that can be used. If they want to get a copy or a list of all the international conventions and precedents in their

decisions, they would have to use their own resources at home or have individual subscriptions. In 2007, AMIDEAST, through a USAID funded project, collected all international conventions and bilateral agreements approved by Lebanese parliament and published them through Sader Editions in an 8 volume, 5,000 page reference book. Around 300 copies were delivered to MOJ to be dispatched to all tribunals. Since then, there was no update on the reference book and it is not available in most of the courts. In 2012, the UNDP initiated a project to support an e-Library including subscriptions to different databases for a number of years. This, however, needs the necessary technical expertise and financial support to be sustained by the MOJ or the HJC. During the site visit to the court of Zahle, the judges expressed the need for an organized library accessible by the judges at the court house.

B.4. Low Public Perception of the Judiciary

B.4.1. Political Connections

The low public perception of the judicial system negatively affects the credibility and level of trust in the justice system. In interviews of people outside the justice system, there is little faith in the independence and impartiality of the judiciary. Many citizens believe that, legal proceedings are always affected by political interference. Even if a judge is known as very independent, citizens would try to seek political interference for their cases with a particular judge or a friend of a judge. It is commonly claimed that people with the right connections are likely to be acquitted of the charges or will receive reduced sentences. They don't believe that the justice system is impartial dealing only with the facts and the laws. (Please note that details on political connection was covered in the answer to question A.)

B.4.2. Negative Role of Media

According to some lawyers interviewed, the media uses campaigns to affect court proceedings and decisions for pending cases. Lawyers complain that news broadcasters are not objective, don't have legal background, and do not have sufficient knowledge of the case. They use media pressure to sway public opinion against a particular judge's ruling. This is commonly done because the citizens do not trust the state and all its institutions including the judiciary system; and second because there are deficiencies in the media code of ethics on how to approach the judicial system. Even though freedom of speech and free press are pillars of democracy, the disclosures of court cases publically is a source of insecurity for most judges. The absence of a strong body that defends and protects judges from any unlawful attack from politicians, media, and the public is also a source of insecurity for judges. One key informant made a reference to MOJ openly and publically criticizing the decision of a judge before the appellate process was completed.

B.4.3. Enforcement of the Law

Since 2011, the Parliament has not passed any laws affecting the judiciary, except for the law on increasing judges' salaries. A Parliamentarian told us that in 2014 the Parliament had 55 draft laws, but passed few of them. Furthermore, there is little enforcement of many of the existing laws. He also referred to the confusing wording of the laws. Some laws that are passed are poorly written or confusing to the degree that attorneys do not understand them, and judges can't accurately interpret them. According to the Parliamentarian, the existing laws do not reflect today's standards or society's values. The public is ignorant of the laws and their legal rights and they lack access to the courts. In the words of the Parliamentarian, "The Justice System is a prison of the law."

B.4.4. Pre-detention and Due Process

The past and current practices of pre-detention and due process both contribute to the poor public opinion of the justice system. According to key informants in the judicial system, the problem is endemic to the system. Many instances were reported where a person is presented to the Court of

Appeal in charge of reviewing the indictments after already serving a few months of detention. It then takes the judge about one week to give a sentence and if there is no evidence for a case, the detained is released. Arriving at a first hearing for the detained can be a long process. First, the arresting police officer files a report that may be based on an "informant report", i.e., not supported by evidence. Second the prosecutor files a case using the police officer's report without looking critically at the evidence at hand. Third, the investigative judge follows through with the case. This process can take months and is subject to errors. Interviewed judges said that the public blames the judge for delays, yet the problem was really at different stages in the system. Judges noted cases when they would call for a hearing and file a request to the central police authority for the detainee to be presented for a hearing. However, at the time of the hearing the detainee doesn't show up and the hearing is postponed. The detainee's failure to appear can be due to poor communication with the police authority (the police or detainee didn't get the message), or a lack of transport to bring the detainee from the prison to the court at the appointed time, etc.[22]. These are indications of a weak administration.

B.5. Findings

1. **Political interference and political conditions** within the country negatively impede the effectiveness and efficiency of the judiciary from carrying out its public mandate to provide equal justice for all under the law.
2. The **poor conditions of the judicial infrastructure** particularly courthouses contribute to an inefficient and ineffective judiciary as well as a lack of respect for the justice system.
3. The **low financial, human, technical, and administrative resources** available to the judiciary impede the judiciary from carrying out its public mandate.
4. The **increase in the Syrian refugee population in Lebanon** (estimated at 1.113 million by UNHCR) strains an already over-extended judicial system still operating with the same resources.
5. The **negative public perception of the judicial system** decreases the credibility and trust in the justice system, and therefore impedes access to justice.

[22] This problem is common to each criminal court where communication is an issue and logistics for prisons another problem. There not enough cars to transfer prisoners to court, or there are not enough personnel to escort them so ultimately the police personnel do not transfer detainees to the Judge/Court and justice is delayed.

C. What are the Political and Governance Considerations that USAID Should Take into Account in Providing Rule of Law Assistance?

There are a number of considerations that USAID should be particularly aware of if they were to seek to re-launch assistance. Among the major considerations are the separations of power, requirement for policy, and legislative intervention versus the requirement for infrastructure and administrative interventions and last working with civil society.

C.1. No Checks and Balances

There is no separation of powers in government or between the executive and legislative branch and therefore no balance of power. After the amendment of 1929, Article 28 of the Lebanese constitution permits ministers to be chosen from the Chamber of Deputies. The executive branch includes the President of the Republic elected by parliament for six-year term, the prime minister appointed by the President after obligatory consultation with members of parliament and the ministers appointed by the President in consultation with the prime minister. The Council of Ministers includes a total of 24 Ministers divided equally between Muslims and Christians.

Ministers within the executive branch can also be members of parliament in the legislative branch. There is no law that prohibits a member of parliament from being part of the Ministerial Cabinet and vice versa. In a given year, there can be between 10% to 15% overlap between the executive and legislative branches. Therefore, there is no separation of power and limited checks and balances. This has direct implications on any USAID project in Rule of Law, particularly if it requires policy and legislative interventions, which are likely to be subject to political maneuvering. It also affects the implementation mechanism and instruments. Any judicial reform will require lobbying and work at both the legislative and executive branch for it to succeed. Several informants pointed out that since the judiciary has no leverage under the current structure of government, foreign governments, including the US, should try to pressure the Government of Lebanon to make judicial independence a priority.

C.2. Policy & Legislative Intervention Require Political Maneuvering

Judicial reform that requires policy and legislative intervention will require political maneuvering. Agreement is unlikely to take effect over the lifetime of a particular project, thereby requiring a long-term vision. Under the SIJCAJ project, a draft on judicial independence was submitted to the government in 2010. The draft law was presented to President Suleiman by the former HJC President G. Ghanem at the end of his mandate before retiring. Since then there has been no change. This draft law and other draft laws on the independence of the judiciary are still sitting in Parliament with little prospects to be passed anytime soon. The same can be said on the law on judicial mediation submitted by the International Finance Cooperation (IFC) through funding from the European Union. Again, there are different versions of this law that have been formulated and submitted to Parliament. To date, there is no clear evidence for these laws moving forward. Many of the judges and prosecutors interviewed confirmed that policy and legislative interventions by USAID or any donor are subject to political interference and will require lobbying efforts. Any activities that require legislative changes are likely to require working with the different political and confessional parties to ensure parliamentary approval.

The majority of informants acknowledged the importance of pushing for the law on judicial independence because it is a preemptive for the independence of the justice system in Lebanon. One of the suggestions was to link this to a larger bilateral donation or assistance granted to the Lebanese government.

C.3. Infrastructure Interventions do not Require Political Consideration

Infrastructure, administrative, and logistic interventions do not require political consideration, but might require agreement over the implementation mechanism and instruments to be used. In all the interviews carried out, the people confirmed that infrastructure and administrative reform, such as rehabilitation of buildings, court houses, archiving, clerks' offices, filing, networking, automation, procurement of hardware, software, etc. are desperately needed at MOJ, the HJC, and the court houses around the country. There are no political considerations to be aware of for such projects. In fact, most of the people interviewed at the MOJ and the HJC were extremely receptive to any initiative undertaken in this area. In an interview with the MOJ, the informant spoke about a $500 million plan for the judicial body including the MOJ, HJC, the different court houses, and 35 judicial locations across the country. The High Judicial Council spoke about their needs for equipment and material to support the judiciary in their functions including better equipped judges' chambers, offices, and court houses. HJC informants also spoke about their interest in model courts similar to the execution court of Beirut (Dairat Al Tanfiz) that would help demonstrate a positive example within the justice system at courts across the country. The Judicial Training Institute informants and the Council of State informants spoke about the need to establish "moot" courts to be used by judges undergoing training to demonstrate best practices in court houses.

All the stakeholders, including the High Judicial Council, Ministry of Justice, and Judicial Training Institute appear to be receptive to any interventions undertaken by USAID in that sector. What was notable was without serving during the National Center of State Courts SIJCAJ project, many still are quite aware of USAID contributions to the sector, particularly in terms of the model execution court and the refurbishing of the Judicial Training Institute (JTI –Achrafieh).

C.4. Civil Society

Another political and governance element that USAID should be aware of if it seeks to re-launch assistance is the willingness of judicial institutions to engage with civil society organizations. Over the last few years, the MOJ and the HJC has been working closely with civil society organizations in different areas associated with judicial reform and access to justice. For example, the MOJ subcontracts different organizations such as Union for the Protection of Juveniles, Caritas, and Le Foyer de la Providence to deal with cases of juvenile delinquency. Furthermore, the HJC is working with civil society organizations on continuous education for sitting judges and clerks. This is an initiative that was started by EU in collaboration with Justicia and others to provide technical assistance, capacity building, and training in different areas of the law through short training workshops. In May 2015, The Legal Agenda launched a project titled "Judicial Independence: a Social Priority in Lebanon." The project is carried out in cooperation with the International Commission of Jurists and the International Institute of Higher Studies in Criminal Sciences (Italy), with funding from EU. The project will focus on working with the media to monitor, understand, and analyze forms of interference in the judiciary; promoting social action, and enhancing judicial activism and working on legislative and institutional reform through draft laws. In a meeting with the High Judicial Council, the EU has referred to their close cooperation with Legal Agenda on this project with prospects for change. Furthermore, HJC President Judge Jean Fahed discussed a five-year plan that the HJC had prepared and will begin implementing with support from donors.

C.5. Findings

1. There is **limited separation of powers** between the executive and legislative branch and therefore the balance of power can be challenged, for example the judiciary does not have an independent budget or revenue generating authority; the Judiciary has limited ability to undertake reform.

2. **Policy and legislative interventions** for judicial reform **will require political maneuvering and agreement** that is unlikely to take effect over the lifetime of a particular project; a long-term vision is required.

3. **Infrastructure, administrative, and logistic interventions** do not require political consideration, but might require agreement over the implementation mechanisms and instruments.

4. **Stakeholders (High Judicial Council, Ministry of Justice and Council of State) appear** to be receptive to certain judicial reform and are willing **to engage with civil society organizations.**

D. What elements of Lebanon's judicial system, if any, contribute to the rise of violent extremism?

While there are elements in the administration of criminal justice that may contribute to the rise of violent extremism, there are limited elements within the judicial system itself that contribute to its increase. In all the interviews conducted, a limited number of respondents referred to elements within the judicial system that contribute to violent extremism, including judges, court proceedings, favoritism or other. Informant references were common that elements within the administration of justice such as pre-trial detention, case delay, prison conditions, military courts and special tribunal and others contributed to the rise of violent extremism.

D.1. Pre-trial Detention

While Lebanon does not have pre-trial detention laws, there are, however, regulations on pre-trial detention. With the increase in the number of cases over the last few years, pre-trial detention is taking much longer than it has in the past. Under normal circumstances, pre-trial detention should take two to three days. Interviews with UNHCR, UNDP, lawyers and others within the sector, however, confirmed that, depending on the case, pre-trial detention is currently taking from two weeks to few months and sometimes years. For example, during one interview with a former highly placed HJC member, the assessment team learned of a Sudanese worker who was detained in Lebanon for three years before he was brought to trial. When the judge received a letter from the prisoner expressing his case, he followed up on the case. Ultimately, the final sentence for the Sudanese worker was less than the total time he spent detained.

Pre-trial detention procedures have caused individuals to be confined without the benefit of an attorney and without knowing the charges. Furthermore, individuals are known to be confined for long periods, even though there are regulations limiting the time of pre-trial detention. Due process procedures may, in some cases,[23] be completely ignored during pre-trial detention. Informant judges said that the reasons for detention, such as risk of flight, risk of harm to others, public safety or preservation of evidence in some cases have not been specified. Furthermore, it is alleged that some police use torture during pre-trial detention. One key informant reported that the "overuse of pre-trial detention leads to overcrowding in prisons where radicalism is inspired." Another informant stated that some of the accused are actually victims and their treatment in pre-trial detention facilities causes them to "take justice in their own hands." Another informant said that "the guilty leave Lebanese prisons more dangerous than when they entered."

D.2. Lengthy Trial Process Leads to Excessive Case Delay

Another issue that contributes to rise of violent extremism is the case delay and slow trial process that undermines the delivery of justice. In interviews carried out with judges, case delay and slow trial process was mainly attributed to human, financial and administrative resources.

As mentioned previously, there are approximately 550 judges and 50 prosecutors for over 194,000[24] cases each year. With the Syrian crisis, the number of cases increased by 40% to 50% for the same number of judges and prosecutors. An inadequate number of judges, clerks, and other personnel is a major contributor to case delay, in addition to the absence of a suitable and comfortable environment for judges, including a lack of air conditioning in judges' chambers and court houses, and a lack of

[23] Example: the pretrial long detention of the Islamists who were fighting the Lebanese Army in Naher el Bared camp.
[24] This figure is according to 2013/2014 court cases in Lebanese courts provided by the HJC reported in Annex X.

computers, printers, scanners and access to the internet, all of which limit the functionality and productivity of the judges.

According to informants, the lack of financial resources and control over budgets by the judiciary is another factor that contributes to the rise of violent extremism. The absence of an independent budget for the judiciary limits the capacity of the high judicial council and all judicial institutions of Lebanon to respond to immediate needs. One case that was consistently cited by respondents was the case of approximately 400 prisoners accused of being Islamists. According to the judges interviewed by the team, the delay was due to a number of factors, including the fact that a single judge was handling the files of approximately 400 prisoners. In addition, there were no courthouses that could host that many prisoners at a given time, and the judiciary had to request that a facility be constructed – they had no funds of their own to do so. Finally, some prisoners themselves stalled the process, hoping that a case delay would eventually result in an amnesty of some sort. However, the linkage between procedures that delayed the administration of justice and how this may have contributed to extremism is not supported by evidence. Some informants stated that the 400 were already proven to be extremists and the delays were of no consequence.

Delays in the administration of justice are an indication of inefficiency and poor management. It needs to be addressed in a systematic way that identifies causes and proposes remedies. Whether delays lead to extremism or not is a matter for specific study to resolve. Reducing the time from first detention to the defendant's first hearing or court appearance is the desired objective.

D.3. Prison Conditions

Prison conditions were marked as a major factor that contributes to violent extremism. In all interviews conducted, respondents identified the prisons (which are outside the jurisdiction of the justice system) as a venue that fosters and reinforces violent extremism. Key informants referenced the recruitment of extremists within the prison system. Furthermore, there are no rehabilitation or training programs for prisoners. There was no indication that known extremists were in a rehabilitation program to dissuade them from violence. A lawyer familiar with the prisons estimated recidivism at 30%.

The prison condition is a "catastrophe" according to a key informant, and is "where extremist ideas are born." Key informants reported that certain minorities are abused more often than others in prison, which can lead to violent extremism. For example, according to one informant, Palestinians are subject to abuse more than Lebanese and Syrians. Famous for its lack of ventilation, light, space, cleanliness, sleeping conditions, many informants referred to the terrible conditions of the detention center as "under the bridge." One key informant claimed that "the system does not give rise to extremism," but rather it is the prison conditions that promote extremism. In addition, the informant also argued that "case delay is exaggerated by attorneys. If there are case delays, it leads to complaints, not violence."

According to the MOJ Lebanon's prison population is 6439 individuals. Roumieh is the largest and most notorious prison in Lebanon. Recent figures show that Roumieh currently has 3047 male prisoners, and 123 juvenile prisoners. Informants believed that lack of adequate infrastructure and sleeping quarters within the prisons, combined with the brutal police practices in the management of the prison, is a major contributor to violent extremism. Prisoners are not always separated based on severity of their crimes, so defendants in criminal and civil cases frequently share the same cells.

D.4. Jurisdiction of the Military Courts and the Special Tribunals

The jurisdiction of the military courts and the special tribunals were among the most quoted elements within the justice system that contribute to the rise of violent extremism. There is no clear jurisdiction on military courts; anyone can be tried in a military court if deemed a threat to national security. Unlike other civil or criminal courts, the Lebanese military court has its own procedure that overlaps the

authority of civil and criminal courts. The wide range of authorities of the military court leaves much room for injustice as well as selective justice. In all the interviews conducted by the assessment team, military courts and special tribunals were mentioned as contributors to violent extremism.

The offenses committed by people for which they can be judged and transferred to the military court are fixed in Article 24 of the Military Criminal Code and are *inter alia:* evading military duties, offenses against honor and duty, offenses against military discipline, treason, spying, illegal contact with the enemy, offenses related to weapons, terrorism, offenses against members of army, police and General Security (GS) and evading the military service.

All cases transferred to the military court are tried in the permanent military court (refer to the text box below), without a jury. All decisions, however, are subject to an appeal before the Military Court of Cassation.

Many lawyers and judges interviewed indicated that the military dominates the presence of civil judicial judges on multiple levels. This poses a grave threat to personal freedoms and fair trial guarantees, especially the right of defense and the independence of the judiciary.

In military courts, the law allows officers licensed in law to be appointed as single military judges. If such an officer is not found, the law allows unlicensed officers to be appointed to this position. Officers licensed in law may also be appointed as assistants of the government commissioner to the military court, as long as they are ranked captain or above (Article 11 of the Code of Military Justice). A military officer licensed in law may also conduct preliminary investigations (Article 12 of the Code of Military Justice), which poses a threat to the freedoms and rights of the person subjected to investigation, especially their right to defense.[1]

> The permanent military court is presided by a colonel, or higher rank. In felony cases, the president is joined by four other members, only one of whom is a civil judicial judge. The other three members are officers ranked lower than the president. In misdemeanor cases, the president is joined by two members, one a civil judicial judge and the other an officer ranked lower than the president.
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> The military judiciary's Court of Cassation consists of two benches; each presided over by a judicial judge. On the bench that examines felonies, the president is joined by four officers; whereas, on the bench that examines misdemeanors, the president is joined by two officers.

The Minister of Defense is in charge of appointing the military judges at the beginning of each year. The Minister's decision is based on the military and security service authorities' recommendation regarding their officers. During their tenure as presidents or members of military courts, military personnel remain directly subordinate to the Minister of Defense, and are subject to the regulations of the corps to which they belong. Hence, judges are closely connected to the executive and military authority.

According to an article on the legal agenda website, it is stated that the close connection in the appointment of judges "casts strong doubts over the military courts' independence and impartiality. Independence and impartiality are measured in regard not only to personal factors (i.e., the judge's prejudices and personal interests in a case), but also impersonal factors (i.e., the court's apparent impartiality). In order for a court to have the appearance of impartiality, it must provide the appropriate objective guarantees to dispel any legitimate doubt over its impartiality. Jurisprudence issued by the European Court of Human Rights has enshrined the principle of the appearance of independence, such that the mere existence of reasons for one party to legitimately doubt the independence or impartiality

of the judge is enough to violate the principle. The military's domination over the composition of these courts is an objective reason to doubt their impartiality and independence."[25]

D.5. Unequal Application of the Law

When prosecuting people of different confessional affiliations, there is unequal application of the law and disproportionate sentences for the same crime, particularly in military courts. There is widespread criticism by the media on the disproportionate sentences of certain "terrorists" based on the political affiliation of the suspects. A recent decision by the military court for the sentencing of a former Minister Michel Smaha accused of terrorist activities generated strong reactions among the population and media. This inflamed response led the MOJ to propose a new draft law to amend certain prerogatives of the military court.

[25] Legal Agenda website http://english.legal-agenda.com/article.php?id=713&folder=articles&lang=en

IV. RULE OF LAW ASSISTANCE BY DONORS

European Union: The European Union (EU) has invested more than 22 million Euros over the last 5 years in judicial reform. The EU focused on justice reform in areas related to automation, training, access to justice, prison administration, and capacity-building of the High Judicial Council, Judicial Training Institute, Judicial Inspections Unit and the Council of State. Between 2009 and 2015, the EU helped to modernize the justice system with a 10 million Euro project that focused on the automation of Beirut courthouse through an extension of the MOJ information technology platform to create a more productive, efficient, transparent and accessible justice for all. This project was implemented by UNDP in close cooperation with Office of the Minister of State for Administrative Reform (OMSAR) and MOJ. Between 2008 and 2012, the EU worked with the UN Office on Drugs and Crime (UNODC) assist Ministry of Interior and Municipalities (MOIM) to transfer the control of prisons from the MOIM to the MOJ. While the project finished in 2015, the MOJ is still in the process of obtaining control over the juvenile and women prisons. During the same period, the EU supported programs for the Internal Security Forces (ISF), mainly in the field of criminal investigation, through technical assistance, the provision of equipment and training, and helped to create the Judicial Police Practical Training Centre in Aarmoun. The EU also supported a project to improve the rights of detainees during police custody, pre-trial detention and incarceration; to improve detention procedures by working with security forces in promoting respect for human rights; and to refurbish arrest centers.

United Nations Development Programme (UNDP): Currently the UNDP is conducting a ROL assessment for Lebanon, which will help define the new strategy for UNDP interventions in Lebanon. Currently, UNDP has approximately 11 projects under democratic governance, one of which, "Enhancing access to Justice (Phase II); and (11)", focuses on ROL. In the past UNDP has had two projects since 2007 that focused on enhancing access to justice. They were aimed at strengthening the capacities in the MOJ in order to achieve a more accountable, equitable and effective human rights-based administration of justice. One project focused on capacity building for judicial reform, which was to develop and enhance the capacity of MOJ mainly through support of the IT staff in implementing the Beirut Court Automation Master plan. It also focused on improving state legal aid and enhancing access to information through the establishment of help desks, publication of the Judiciary Review, developing a media and publication campaign, expanding an e-library at the MOJ and making it accessible to justice through an on-line platform.(European Commission), UNDP $1,423,000)

International Finance Cooperation (IFC): In 2012, the IFC with support from the Swiss Secretariat for Economic Cooperation and the European Union implemented a project aimed at institutionalizing commercial mediation in Lebanon in cooperation with the Ministry of Justice, the Chamber of Commerce, Industry and Agriculture of Beirut and Mount Lebanon, the Tripoli Bar Association and universities. The project was aimed at helping resolve commercial disputes efficiently and amicably in support of economic growth. It provided Centre for Effective Dispute Resolution (CEDR) training and certification for 30 mediators. IFC also supported the creation of a mediation center hosted at the Beirut Chamber of Commerce and Industry as well as at the Tripoli Bar Association. Furthermore, the IFC worked on the draft law to institutionalize judicial mediation, which is still in the Parliament. In collaboration with EU, the IFC also worked with the Judicial Training Institute to encourage the integration of mediation within the initial judicial training program. The IFC project ended February 2015. IFC does not anticipate starting any new projects unless the draft Judicial Mediation law is approved by the Parliament.

United Nations High Commissioner for Refugees: The UNHCR Department of Security provides legal and physical protection to refugees to minimize threat of violence. They provide different type of services that range from legal and physical protection, legal aid assistance, asylum seeking, training, and capacity building. In Lebanon, UNHCR is working with two agencies, General Security (GS) and Internal Security Forces (ISF). With regards to refugees, they work on equality before the law, access to justice,

regulations and curfews. For capacity building, they are working closely with Ministry of Interior, specifically ISF and GS, to reduce pre-trial detention and ensure appropriate handling of cases. They are also working with a network of legal assistant partners of 25 lawyers who provide limited legal aid assistance. The UNHCR is working with Beirut Bar Association, and Nizar Saghieh law firm who is also the Director of Legal Agenda to provide legal aid assistance to detained refugees. UNHCR is working on community policing with Model Police Station in Ras Beirut (Makhfar Hbeish) and may extend this model to Gemmayze Police Station.

Swiss Embassy: The Swiss Embassy funded a study on the provision of legal assistance with Centre Libanais des Droits Humains (CLDH). Their work with the rule of law is mainly limited to working with Syrian refugees through their Office of Cooperation. They traditionally fund a two-week training program on international Law with the Legal Clinic at Sagesse University, and are developing a strategy to invest in a peace-building program.

French Embassy: The French Embassy supports projects dealing with the Lebanese Army and Internal Security Forces. Its funding focuses on training, technical assistance, and institutional support in the security sector.

Netherlands Embassy: The Netherlands Embassy is working with local civil society organizations mainly on human right issues, internet and digital freedom.

V. STRATEGY FOR USAID RULE OF LAW ASSISTANCE

The following section provides an analysis of and findings for the following question: What is the strategic approach for supporting the Rule of Law in Lebanon and what are the lessons learned and best practices from rule of law assistance programs in Lebanon?

A. Essential Elements of the Rule of Law in Lebanon

The essential institutional and societal elements that are the most critical in establishing the rule of law in Lebanon are:

- Legal framework of the justice system, specifically the Constitution as well as current and draft laws ensuring *de jure* the independence of the judiciary;
- Judicial control over the appointment, rotation, promotion and disciplinary process of judges, the budget of the judiciary, and the administrative and management procedures of the courts;
- Absence of improper internal and external influence of judges;
- Modern court infrastructure;
- Automated court administration and case management procedures; and
- Equal access to justice for all citizens of Lebanon and foreigners living in Lebanon

None of the essential elements of the rule of law in Lebanon exist today.

B. The Goal of Judicial Independence

Given the assessment team's analysis based on all of the key informant interviews as well as its own document review that, while the justice system is not *de jure* independent, judges themselves are viewed by the legal and judicial communities as being independent, the strategic approach for supporting the rule of law in Lebanon is to focus on amending the legal framework in order to enhance the independence of the justice system for which there has been little political will, while concurrently developing the competency, effectiveness and accessibility of the judiciary.

With this strategic approach, the goal of independence would underlie all activities associated with developing the competency, effectiveness and accessibility of the judiciary. Thus, when political will shifts towards increasing the structural **independence** of the justice system, the judiciary will be better prepared to absorb the responsibilities and obligations of an independent justice system by being more **competent** with increased training; by being more **effective** in administering and managing the operations of the court through expanded administrative responsibilities of the High Judicial Council, in conducting its work in modern court facilities with automated court administrative procedures, and in reducing its caseload with the sanctioning of judicial mediation; and by being more **accessible** to the citizens of Lebanon in serving those who have received increased legal aid from civil society organizations, including the Beirut and Tripoli Bar Associations.

C. Factors that Impede Reaching the Goal of Judicial Independence

While there have been efforts to amend the Law on the Justice System to increase judicial independence by enhancing the structure of the justice system, there have been no serious attempts by the Parliament to pass such a draft law. SIJCAJ attempted throughout its duration to encourage passage of the draft law, on judicial independence, but was not successful, understandably so since there was and continues to be no political will to increase the independence of the judiciary, which would come at the expense of the executive and legislative branches of government. Not only are judges disadvantaged at this imbalance

of power, but also the citizens of Lebanon who are the primary victims as their rights and civil liberties are not protected by the government or the judiciary.

Interestingly, another factor that impedes attainment of the goal of judicial independence are the judges, themselves. It was not uncommon to hear judges' accepting the judicial system as is, for they are resigned to the current system and feel powerless to change it. Many view themselves as civil servants working at the behest of the High Judicial Council and the Ministry of Justice, rather than as independent arbiters of justice.

D. Identify Incentives to Increase Judicial Independence

While the judicial system in Lebanon is similar to many other countries where USAID has provided judicial reform assistance, Lebanon does not share similar incentives as these other countries for reform. For instance, in central and eastern Europe, the desire to become a member of the European Union and of the North Atlantic Treaty Organization was powerful incentives for the governments to amend current laws affecting the independence of the judiciary and to increase the rights and status of judges. Without such incentives, it is questionable whether political will would have existed to institute such judicial reforms in these countries. Thus, it is crucial to identify similarly powerful incentives that will encourage the executive and legislative branches to relinquish its power over the judiciary in Lebanon.

E. Interventions for which there is little Political Will to Increase Judicial Independence

Although there is currently little political will to increase the independence of the judiciary, USAID should, nevertheless, pursue it as an underlying theme in its entire rule of law activities. While direct intervention with the executive and legislative branches may be fruitless, indirect entry points, such as supporting the Beirut and Tripoli Bar Associations and other civil society organizations, as well as judges, themselves, to fight for judicial independence will be beneficial. Additionally, by working more closely with the High Judicial Council rather than with the Executive Branch on activities that support the competency, effectiveness and accessibility of the judiciary, when possible, would send a signal of USAID's support for an independent judiciary. It must be noted, however, that the current Minister of Justice appears to be supportive of transferring administrative and budgetary powers to the High Judicial Council according to the interviews the assessment team conducted with him.

F. Interventions for which there is Political Will to Enhance the Competency, Effectiveness and Accessibility of the Judiciary

Using issue-based interventions, such as enhancing the **competency** of the judiciary through increased training of judges; improving the **effectiveness** of court administration and case management by extending the model court program, and supporting judicial mediation; and increasing the **accessibility** of the judiciary by supporting CSOs for legal aid will improve the justice system as a whole. When political will does emerge for a structural change in the judicial system that would increase the independence and authority of the judiciary, judges will then be in a better position to withstand challenges to their independence.

G. A Longer Vision for the Rule of Law in Lebanon

Should USAID decide to implement a rule of law program in Lebanon, lessons learned from the first rule of law program demonstrate that the vision for judicial reform should be expansive and long-term,

exceeding at least 10 years, to accommodate the absence of political will for judicial independence which is forecasted to remain unchanged for some time, by expanding opportunities for the judiciary to enhance its competency, effectiveness and accessibility for which political will exists. Due to the lapse of 5 years since SIJCAJ ended its three-year program, USAID will need to rebuild trust and reignite momentum.

Until a new rule of law program is implemented in Lebanon, it would be advisable for USAID to continue the contacts established between judicial leaders and the USAID staff during the assessment team's visit. Such continued contacts would not only help to reestablish trust in USAID's assistance, but also allow USAID to maintain a current understanding of the judicial needs and reforms.

H. A Rule of Law Program should be Lebanese-Driven, not Donor-Driven.

Without a doubt, Lebanon is a complicated country, given its geographic location and population. While foreign donors can provide assistance, only Lebanese justice system stakeholders can truly understand their intricate problems and viable solutions. If there is no local ownership at the inception of the rule of law program or stakeholders' interests in certain activities wanes, the rule of law program should be sufficiently flexible to change direction, or even to stop the engagement of certain activities. If the supply side of the justice system, i.e. justice institutions, shows resistance to certain USAID activities during the rule of law program, then USAID should shift its balance of support by increasing attention to the demand side of judicial reform, civil society organizations.

Lessons learned from the first rule of law program also demonstrate that each activity of the rule of law program should be periodically vetted with the relevant stakeholder, even if there was initial support for a specific activity. While intentions of stakeholders may appear supportive at the outset of a rule of law program, implementation of certain judicial reforms may become too burdensome or duplicative of other donor programs. If the rule of law program is Lebanese-driven, and has the flexibility to change, it will have a greater chance of success, and there will be less time and resources expended on objectionable activities for which success is questionable.

I. Build Upon the Former USAID Rule of Law Program, SIJCAJ

While SIJCAJ had a rocky beginning with personnel issues throughout its first year, and met with some resistance from the Minister of Justice and the Judicial Training Institute throughout the Program, according to the evaluation of the SIJCAJ, there was sufficient success with certain activities, and significant work products produced during the tenure of SIJCAJ. These efforts should be continued, despite the five year lapse of rule of law programming. Many informants whom the assessment team met praised the work of the SIJCAJ in remodeling the Execution Court and the Judicial Training Institute and several praised the subsequent leadership of the SIJCAJ While the momentum to work with a USAID rule of law program has stalled, there is significant interest by the stakeholders to resume rule of law activities with USAID.

J. Avoid Overlapping with other Donors

While this is an obvious approach, it is not always pursued. A lesson learned from SIJCAJ is that some of its efforts in providing curriculum assistance to the Judicial Training Institute were not welcomed due to its overlapping program with the European Union. Since Lebanon is a volatile country with many demanding challenges for the donor community, the intended rule of law assistance provided by donors can also be volatile and subject to change, depending upon other emerging needs of Lebanon. Thus, even if the USAID rule of law program at its inception appears to complement other donors' rule of law

programming, it is advisable to work closely with other donors throughout the term of the USAID rule of law program and to allow for flexibility in adapting to other donors' change in their programming.

K. Create a Small Advisory Group of Lebanese Judges and Attorneys

Given the complexity of Lebanon, and the changing political landscape, it would be advisable for USAID to create a small advisory group of Lebanese judges and attorneys who will work closely with USAID in finalizing the prospective rule of law program and will continue to advise throughout the implementation of the program. It is evident from the numerous meetings conducted by the assessment team that while the assessment team may have current information, the landscape and political will may change resulting in new judicial leaders with a different set of recommendations – the small advisory group would track such changes.

The assessment team met with the leadership of the judiciary, Minister of Justice, Chief Justice of the Court of Cassation, and President of the Council of State, to discuss its findings and recommendations to ensure there was a consensus on the recommendations. While all of the recommendations were supported by the judicial leadership, they acknowledged that many of the recommendations may take years to fully and successfully implement, given the lack of current political will.

L. FINDINGS

1. The essential institutional and societal elements of Rule of Law that are the most critical to establishing the Rule of Law in Lebanon are the independence, competency, effectiveness and accessibility of the Justice System of Lebanon.

2. While there is little political will to pass laws affecting the independence of the justice system, there are interventions for which political will exists that will enhance the competency, effectiveness and accessibility of the judiciary.

3. The interventions for which political will exists must support the fundamental policy goal of increasing the legal framework for the independence of the judiciary.

4. The success of a new Rule of Law program should be Lebanese-driven with an ownership by the justice institutions to ensure sustainability.

5. The sustainability of a Rule of Law program requires building upon the former Rule of Law program with a long-term vision of 15 years even if the contracting periods for the Rule of Law program are shorter periods of time.

6. The success of a new Rule of Law program requires flexibility to adapt to the lack of political will and to the assistance provided by other donors in order to avoid overlapping.

V. RECOMMENDATIONS

The assessment team recommends to USAID to develop a second rule of law program with the goal of enhancing the independence, competency, effectiveness and accessibility of the justice system.

The assessment team is recommending specific long-term and short-term activities within each of the four essential elements in enhancing the rule of law in Lebanon, independence, competency, effectiveness and accessibility of the justice system.

The assessment team recommends that the long-term activities represent a vision of USAID programming that may extend for a significant period of time from 10 to 15 years, while the short-term activities could begin shortly after a new USAID rule of law program is launched and can be completed within the first year of the program as they are based almost exclusively on the previous USAID rule of law program, SIJCAJ, to ensure continuity of activities, despite the five to six-year lapse between USAID rule of law programs. The recommendations below are cast in a Concept Paper framework in Annex I. The Concept Paper links these recommendations to USAID Lebanon's Country Development Cooperation Strategy (CDCS), and to USAID's global Strategy on Democracy, Human Rights and Governance (June 2013).

It should be noted that the assessment team believes the judicial inspection and evaluation oversight by the Judicial Inspection Unit should be significantly strengthened. The Judicial Inspection Unit was highly criticized by many informants for being ineffective, but given that it is a component of the civil law system, it is an activity that is better suited for European donors.

As a means to seek input from the three major justice stakeholders, the Minister of Justice, the Chief Justice of the Court of Cassation who is the President of the High Judicial Council and the President of the Council of State, the assessment team conducted out briefs with each of these individuals to present the recommendations and to receive their responses. Perhaps it is a tribute to the forthright discussions the team conducted with these individuals as well as numerous others during the five-week duration of the assessment, but all recommendations set forth below were supported by these stakeholders, including *inter alia,* the transfer of administrative and management control over the courts from the Ministry of Justice to the High Judicial Council, as well as the training of leaders of the religious courts on due process and human rights procedures.

A. INDEPENDENCE

1. Support the Development of a Ten-Year Strategic Plan for the Justice System of Lebanon

The top priority in enhancing the independence of the judiciary in Lebanon is designing a ten-year Strategic Plan for the Justice System of Lebanon.

The major purpose for engaging in a strategic planning process is to provide the Ministry of Justice and the High Judicial Council an opportunity to take a proactive approach to developing an independent, efficient, competent, and ethical judiciary. The strategic planning process will help guide both the Ministry of Justice and the High Judicial Council to make fundamental decisions and actions that shape the critical functions of the justice system.

Rather than be reactive, or in some cases, submissive, to the dictates of the executive and legislative branches, the judicial branch needs to take the lead in determining and promoting its own reforms.

Members of the judiciary must take personal responsibility to engage in the strategic planning process to develop a consensus of reforms necessary to enhance judicial independence.

By engaging in a strategic planning process, the Ministry of Justice and High Judicial Council can collectively identify fundamental values of the Lebanese justice system, and create a vision to help guide and coordinate justice system reforms so that all reforms move toward a common goal.

The strategic planning process would include all institutions of justice. In addition to the Ministry of Justice and High Judicial Council, these could include the Judicial Training Institute, the Beirut and Tripoli Bar Associations, law faculties and selected civil society groups. Together, they will conduct:

- an analysis of the status of the operation, functionality and efficiency of each institution of justice;
- a determination of the issues and obstacles affecting the outcome of each institution of justice;
- an assessment of the political and confessional realities within Lebanon which pertain to each institution of justice;
- an assessment of the role of public constituencies; and, ultimately,
- a determination of the vision, goals and priorities of the Ministry of Justice.

While all three stakeholders supported this recommendation, there was a request that the Action Plan which would accompany the Strategic Plan sets forth shorter time frames for implementation of the Strategic Plan.

Short Term: Expand upon the efforts of the SIJCAJ in its pursuit of a Strategic Plan.

2. Reform the Legal Framework of the Justice System of Lebanon

While there is little political will to reform the legal framework of the justice system, it is essential that under United States Government (USG) leadership and with USAID assistance, parliamentary passage of certain laws which impact the justice system of Lebanon, such as the draft Law on Judicial Independence, the draft Law on Judicial Mediation, and the Optional Protocols to the Convention on the Elimination of All Forms of Discrimination Against Women, be passed by the Parliament. Even the Constitution of Lebanon needs revisions to ensure that the judicial power is equal and separate from the executive and legislative branches. Ideally, Article 95[26] of the Constitution would be revised to eliminate confessionalism within the judicial power. Such an amendment would demonstrate the Government of Lebanon's commitment to a merit-based, non-confessional, non-partisan judiciary. However, it is not possible to amend this portion related to the judiciary without addressing confessionals in the rest of the system. Without external international pressure, "legislators and executives will not relinquish their current power over the judiciary," stated a well-placed informant.

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[26] Article 95 of the constitution amended in 1990: The Chamber of Deputies that is elected on the basis of equality between Muslims and Christians shall take the appropriate measures to bring about the abolition of political confessionalism according to a transitional plan. A National Committee shall be formed, headed by the President of the Republic, it include, in addition to the President of the Chamber of Deputies and the Prime Minister, leading political, intellectual, and social figures. The tasks of this Committee shall be to study and propose the means to ensure the abolition of confessionalism, propose them to the Chamber of Deputies and to the Ministers council of ministers, and to follow up the execution of the transitional plan. During the transitional phase: a. The sectarian groups shall be represented in a just and equitable manner in the formation of the Cabinet. b. The principle of confessional representation in public service jobs, in the judiciary, in the military and security institutions, and in public and mixed agencies shall be cancelled in accordance with the requirements of national reconciliation; they shall be replaced by the principle of expertise and competence. However, Grade One posts and their equivalents shall be excepted from this rule, and the posts shall be distributed equally between Christians and Muslims without reserving any particular job for any sectarian group but rather applying the principles of expertise and competence.

As previously stated, the High Judicial Council is currently working with the European Union and civil society organizations, particularly Legal Agenda, to improve the legal framework of the justice system.

3. Support an Annual Assembly of Judges and Periodic Judicial Forums with the Ultimate Goal of Creating an Association of Judges

Unlike most other countries, the law in Lebanon prohibits the creation of a voluntary judges' association even though the purpose of such an association is to protect and promote an independent, competent and effective judiciary. Ironically, the Beirut Declaration of the Recommendations of the First Arab Conference on Justice of 1999 concluded in Recommendation 10 that "judges shall freely practice freedom of assembly in order to represent their different interests. In this regard, they shall have the right to establish an organization to protect their interests and guarantee their constant promotion." Even the United Nations Basic Principles on the Independence of the Judiciary of 1985 states in Recommendation 9 that "judges shall be free to form and join associations of judges or other organizations to represent their interests, to promote their professional training and to protect their judicial independence."

While there has been support for the creation of a judges' association, there is reluctance among judges to organize such an association claiming that an independent judges' association would undermine the authority of and demonstrate a lack of solidarity with the High Judicial Council. They believe that judges need to unite with the High Judicial Council, given the heavy media and political criticisms of the judiciary.

There is also a resignation among judges who view themselves as civil servants without power to change the system. While others, and perhaps most judges, are focused on their work, their case load, the inadequate courthouse security and lack of professional equipment, which causes them to work at home, not allowing time forto fight for their independence. One judge stated "we are preoccupied more with our livelihood and survival than with our independence."

This view demonstrates a misunderstanding of the role of a judges' association, which is to provide judges an opportunity, emboldened by their numbers, to speak with one voice. The first step in creating an association of judges is to support an annual general assembly of judges to collectively address the challenges of the judiciary and to collectively propose judicial reforms as well as to organize periodic judicial forums of smaller groups of judges to continue such discussions of judicial reforms. The judicial forums could take place in a conference room requested by the High Judicial Council on the premises of the High Judicial Council.

In this regard, the High Judicial Council suggested that a judges' conference room be created at the Palais du Justice to allow judges in Beirut and those visiting Beirut to congregate.

4. Support Civil Society Organizations, including the Beirut and Tripoli Bar Associations, as Catalysts for Change in Promoting and Protecting Judicial Independence in Lebanon

Coupled with the judges' pursuit of judicial reforms that enhance their independence is the obligation of the Lebanese Bar Association to support an enhanced independent judiciary. The Beirut and Tripoli Bar Associations have recently been demanding a more independent judiciary. In a recent September 2015 press release the Bar Associations stressing that judicial reform "…starts by a radical amendment ensuring its independence from the political power…"

During the out brief with the High Judicial Council, the assessment team was informed that the High Judicial Council has experienced very good cooperation with the Bar Association in pursuing greater independence for the judiciary.

B. COMPETENCY

5. Develop a Continuing Legal Education Program with the High Judicial Council

While there is reputedly excellent initial training for judicial applicants at the Judicial Training Institute, current sitting judges do not receive any systematic training on new and amended laws, new legal concepts, including market-based economic principles, or judicial practices, nor are court staff routinely trained. Judges rotated to a new court where they have no experience, such as from a criminal to a commercial court, do not routinely receive training in legal practices in the new court.

One of the main criticisms of the Lebanese judiciary is that, although judges have a good reputation of being competent and ethical among the legal and judicial communities, they are reputed to lack knowledge of market-based economic principles and current topics, such as technology and the law. Many judges readily agree.

The only method for sitting judges in Lebanon to receive training after being appointed to the bench is self-motivating. The two main avenues for sitting judges to enhance their knowledge are to either seek opportunities to attend workshops offered by domestic institutions or international donors, or engage in self-study.

Working with the High Judicial Council, a continuing legal education program for sitting judges should be developed to cover substantive law and judicial skills, based on the needs and priorities of judges and conducted at the Judicial Training Institute, given that USAID's remodeling of five floors allow for considerably more usage of the facilities. According to one high-level informant, continuing legal education should be focused on younger judges as many judges over 50 years are "lost forever" because of the Civil War. Any continuing legal education program for sitting judges, however, should consider periodic training courses throughout all judicial districts rather than only in Beirut to provide all judges with easy access to continual training.

It should be noted, that the recommendation of the Lebanon Democracy and Governance Assessment of 2011 is to not continue the judicial training assistance to the Judicial Training Institute.

During the out brief, the Minister of Justice informed the assessment team that he is proposing an extensive continuing legal education program for sitting judges which would be under the auspices of the High Judicial Council, while the training would be conducted at the USAID-renovated premises of the Judicial Training Institute.

6. Enhance the Legal Education Program at the Judicial Training Institute

Since the assessment team believes the emphasis of increasing the competency of the Lebanese judiciary should be focused on developing a continuing education program for sitting judges, the attention provided to the Judicial Training Institute should be limited to short term activities, unless, during the period of the next rule of law program, there is a demonstrated need for an enhanced curriculum that is not being provided by other donors at the Judicial Training Institute. A former Minister of Justice strongly recommended that the Judicial Training Institute continue to enhance the quality of its initial training to ensure that all judicial trainees received a "uniform education that will create a national legal conscience." He cited the various law faculties, which are fractionalized as they are based on confession and teach according to the principles of the confession.

It should be noted, that the recommendation of the Lebanon Democracy and Governance Assessment of 2011 is to not continue the judicial training assistance to the Judicial Training Institute.

If USAID funds are available, there was a consensus among the three stakeholders to create a Moot Court at the Judicial Training Institute, which was suggested by the Director and President of the Judicial Training Institute, as it would demonstrate the benefits of a modern judicial courtroom and broaden the experience of judicial trainees as well as sitting judges.

***Short Term**:* Update SIJCAJ's Reports entitled JTI Curriculum Development Report and the JTI Curriculum Assessment, and Expand upon the Efforts of the SIJCAJ to Implement the Curriculum Development Module at the Judicial Training Institute, which should include adult-teaching methodologies.

7. Provide Training to the Leaders of the Religious Courts on Human Rights and Due Process

The assessment team learned during its interviews that leaders of religious courts have expressed to the Chief Justice of the Court of Cassation as well as to certain civil society organizations an interest in being trained to enhance their competency. As they are apart from the judicial system, they are often ignored. Short-term trainings on human rights and due process would be an excellent beginning to broaden the perspective of all religious courts leaders by including them in certain training courses with civil court judges with whom they rarely come into contact.

C. EFFECTIVENESS

8. Expand the Model Court Program of Renovation

Model courts, through architectural and court administration improvements, demonstrate the importance of the judicial system and its relationship to the citizens; the dignity and independence of judges; the transparency and fairness of the judicial process; and the openness of the judicial system to all citizens. The interior maintenance of the courthouses makes a symbolic statement about the importance of the judicial system to the Government of Lebanon, increase the respect for the judiciary by the citizens of Lebanon, and increase the efficiency of court operations that ultimately impact the human rights and civil liberties of citizens.

As a result of several suggestions proffered by informants, the assessment team visited three potential courts for inclusion in the Model Court Program, the commercial court of Beirut, the Baabda court, and the Tripoli court. All three courts have need for interior structural improvements and an automated case management system, and while the Minister of Justice is from Tripoli, he, like many of the informants interviewed, believe the Baabda court is the priority court for renovation.

Attached as Annex VI is a comprehensive description of the USAID Model Court Program in Macedonia helpful to USAID Lebanon in envisioning the benefits of a country-wide Model Court Program.

Short Term:
a. Support a Ministry of Justice needs assessment and determination of the priority of courts to be included in the Model Court Program. This recommendation was also reported in the Lebanon Democracy and Governance Assessment of 2011

b. Update and Implement the Case Processing System of the Execution Court refurbished by SIJCAJ. It is apparent from the assessment team's site visit that while the Case Processing System was fully

implemented during SIJCAJ, there has been some relaxation in continuing the implementation during the five-year lapse.

9. Develop Model Court Standards for all Courts of Lebanon that will Improve Court Administration by Automating Case Management, Advancing Case Processing and Reducing Case Backlog

SIJCAJ prepared two excellent Reports entitled Backlog Reduction Plan and the Court Administration Improvement Plan. Collectively, they cover such issues as change management, court premises improvements, records management, reduction of the backlog of case files, improvement of case flow, and court staff development. These Reports should be updated to incorporate the European Union's current program to automate all Lebanese courts, and, in conjunction with the European Union and the Ministry of Justice and the High Judicial Council, be implemented in selected courts.

10. Develop an Administrative Office of the Courts within the High Judicial Council and the Council of State Bureau

As a means of increasing the administrative authority of the judiciary over the courts, the development of a central office for policy-making and management at the High Judicial Council and the Council of State Bureau will enable these bodies to effectively formulate court administration policies, oversee budgeting and enhance case management systems. Currently, the Ministry of Justice is responsible for the administration and management of the ordinary courts; however in the assessment team's out brief with the Minister of Justice, he was amenable to transferring such responsibilities to the High Judicial Council citing his recent request to the Minister of Finance that the Court of Cassation control its own budget which, by virtue of such control, should enable the Court of Cassation to administer and manage its own court. "It is normal that the entity which has control over its own budget should also have control over the administration and management of it," stated the Minister of Justice. Even the Chief Justice of the Court of Cassation believes that not only the Minster of Justice but Parliament as well would support the development of expanded administrative and management authority of the High Judicial Council.

***Short Term**:* Encourage the creation of a Court Administration Policy Committee within the High Judicial Council to continue the court administration reforms initiated by SIJCAJ.

11. Support the Implementation of a Judicial Mediation Program in Lebanon

A successful method for relieving case backlog, which is endemic in Lebanon, is judicial mediation, a complementary and innovative alternative to the traditional judicial system. It is a fair and efficient process that assists the parties to resolve disputes by reaching a voluntary, negotiated agreement. By engaging in judicial mediation, the parties participate directly in the process, and are more likely to comply with the final decision in which they had a role in creating. Bypassing court litigation relieves the courts of those cases for which mediation is more practical.

Several donors have supported the creation of judicial mediation and have written at least two draft laws on judicial mediation, which are languishing in Parliament. For judicial mediation to take hold in Lebanon, it is essential that a law on judicial mediation be passed as there are built-in biases against mediation. Judges often view mediation as a threat to their authority, while lawyers believe mediation causes a reduction in their income as the demand for their services decreases. Many members of the public are apprehensive about mediation as they believe that, according to one informant, "the Judge is God" and prefer to have their disputes resolved by a professional judge.

A public awareness campaign is essential to educate all stakeholders, citizens, parliamentarians, judges and attorneys on the process, protections and benefits of mediation. A component of a public awareness campaign would also include a basic educational program using a variety of media to inform citizens of their legal rights. One informant told the assessment team "the judicial system is closed to most citizens as they don't understand the law and their legal rights."

Short Term: Update SIJCAJ's Report regarding Alternative Dispute Resolution recommendations.

D. ACCESSIBILITY

12. Enhance the Legal Aid System in Lebanon by Supporting the Beirut and Tripoli Bar Associations' Legal Aid Programs, and by Supporting Civil Society Organizations, particularly those who represent Vulnerable Populations, including Women, Children, Poor, as well as Syrian Refugees

The Beirut and Tripoli Bar Associations have been the primary providers of *pro bono* legal services to citizens and foreigners requiring civil and criminal representation. This is done, despite the constitutional requirement that the Government of Lebanon is obligated to provide legal representation to indigent criminal defendants. A public defender's office does not exist in Lebanon, nor are there plans to create one. Until one is created, it is essential to continue supporting the Lebanese Bar Associations and civil society organizations who are dedicated to providing *pro bono* legal services, particularly in criminal cases.

Short Term: Update SIJCAJ's Reports entitled the Assessment of Legal Aid in Lebanon, the Report of Legal Aid Expert with Legal Aid Assistance recommendations for the Beirut and Tripoli Bar Associations.

ANNEXES

ANNEX I: CONCEPT PAPER

CONCEPT PAPER[27]

The purpose of this Concept paper is to provide USAID/Lebanon a list of proposed projects based on the recommendations stated in the Rule of Law Assessment 2015. After review of the Concept paper, the Mission would identify the number of projects to be designed and funded for the next fiscal years. The review of the concept paper is a critical stage, which is the "Conceptual stage of the project design process" in order to be able to provide technical input and select the projects that would result in a Project Appraisal Document (PAD).

The activities listed below are categorized based on the implementing mechanisms and not based on prioritization. The first project "Strengthen institutions and systems that enable the rule of law, and checks and balances among branches of government" includes the activities that would be best suited under a Direct Contract and in partnership with the Lebanese government. The second project mentioned in this Concept Paper "Enhance Awareness of Individual Rights and Promote Equal Access to Justice Project" includes all activities that would be implemented through Direct Assistance, whether through grants, cooperative agreements, etc. It is noted that Public Private Partnership (PPP) opportunities were raised with informants during this assessment; one bank and a bank association had assisted with court infrastructure and prison improvements respectively. However, using PPP as an implementing mechanism may raise issues of conflict of interest and should be carefully studied.

1- PROBLEM STATEMENT AND MAJOR ISSUES

Lebanon has gone through several sectarian and internal tensions such as the civil war that took place from 1975-1990, in addition to a series of conflicts with Israel which led to a partial occupation from 1982-1985. Such conflicts and unrest has resulted in the breakdown of the government for several years and definitely affected the rule of law in the country, especially the judiciary system. Moreover, and throughout the past two years, the Syrian conflict and the 1.113 million Syrian refugees that fled to Lebanon, has had a negative impact on the judiciary and the ability of the courts and judges to be able to handle the large number of cases they receive each year.

The Lebanese judicial system does not enjoy judicial independence due to a number of factors, including the strong influence of the political and executive branch. That said, most judges and prosecutors (approximately 550) are perceived independent in their decisions and say they are not influenced by any internal or external factors, but are not provided with sufficient level of training throughout their careers nor the proper training in specialized fields. Through the previous Strengthening the Independence of the Judiciary and Citizen Access to Justice (SIJCAJ) project, the Judicial Training Institution (JTI) has been reorganized and provides training for new judges and prosecutors. The JTI is responsible to provide training to the new judges while the Higher Judicial Council (HJC) is responsible for the continuing legal education of the current judges. Therefore, USAID will need to work hand in hand with both institutions to be able to implement continuing legal continuation programs.

As mentioned above, The Lebanese courts hear a large number of cases. In 2013-2014, the Lebanese courts received 105,596 cases, while 88,869 were decided.[28] Several problems such as: 1) case delays, 2) inefficient notification system to the parties, 3) delayed enforcement of judgments and, 4) significant delay in the pre-trial period, all result in the decrease of trust in the judicial system and a perception that access to justice is complicated and often deferred.

On the other hand, inefficient and outdated criminal and civil legal services impede the provisions of effective justice for citizens and timely dispute resolution needed for a democratic country. Inadequate access to information on legal rights and effective judicial services for the citizens, women, youth and the disadvantaged groups, will also have negative impact on Lebanon.

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[27] This Concept Paper has been completed based on USAID's the Project Design Guidelines, published December 2011. The next step is the "Analytical Stage" resulting in a Project Appraisal Document (PAD).
[28] The numbers were reported by the Higher Judiciary Council.

Despite the challenges, there have been efforts by the Beirut and Tripoli Bar Associations (BBA and TBA respectively) to provide indigent citizens legal services on a pro bono basis. Several CSOs provide free legal services and information. The CSOs are well-organized to hire professional lawyers to assist with high number of cases they receive. Insufficient access to free legal services impedes access to justice; this is particularly aggravated in criminal cases where suspects are often poor. In addition, quality of services is questionable based on the time and resources the lawyers need to provide in order to follow up with the cases. The BBA has increased the compensation in the past year to $400 per case but lawyers continue to complain that this is "insufficient" to be able to proceed with the cases[29].

To conclude, USAID interventions will need to be mindful of the political will that would affect any change and is a must for reform of the judiciary. It is recommended that USAID programs would focus on practical objectives for the next 1-5 years and to maximize the ownership of all local institutions, while ensuring local buy-in and success of interventions. The 1-5 year ROL program envisioned below is to serve a 10-15 year ROL strategy whose main objective is the eventual Independence of the Judiciary.

2- RELATIONSHIP TO THE CDCS

The Lebanon CDCS does not include a Democracy, Human Rights, and Governance (DRG) Development Objective (DO)[30]. Therefore Lebanon Mission must review the CDCS to include the DRG Goal Statement: Support the establishment and consolidation of inclusive and accountable democracies to advance freedom, dignity, and development. The programs mentioned below directly support USAID's DRG Strategic Framework, DO2: Foster greater accountability of institutions and leaders to citizens and to the law, 2.3: Strengthen institutions and systems that enable the rule of law, and checks and balances among branches of government and DO4: Improve development outcomes through the integration of DRG principles and practices across USAID's development portfolio. Sub-Objective 4.3: promote equality of opportunity and access to public goods and services, particularly with respect to poor and marginalized populations.

In case USAID/Lebanon agrees to fund new projects while reviewing the CDCS, and to be used as a temporary solution, USAID Lebanon CDCS (2014-2018) DO1: Improved capacity of the public sector in providing transparent, quality services across Lebanon, Sub-IR 1.4.1: Citizens' concerns increasingly addressed through CSO initiatives, could be used to implement the Enhanced Awareness of Individual Rights and Promote Equal Access to Justice Project.

ILLUSTRATIVE INTERVENTIONS

PROJECT I

DRG DO2: Foster greater accountability of institutions and leaders to citizens and to the law.
Sub-Objective 2.3: Strengthen institutions and systems that enable the rule of law, and checks and balances among branches of government.
Project: Independence, Competency, and Accessibility of the Judiciary (ICAJ) Project.

The goal of the "Independence, Competency, and Accessibility of the Judiciary (ICAJ) Project" is more efficiency and transparency in the courts and due process:

The Project will work to achieve more transparency, effectiveness, and efficiency in the Lebanese courts. The importance of court reform to USAID/Lebanon's overall goal of promoting rule of law, democracy and governance in Lebanon cannot be overstated. An independent and efficient court system provides the public with a credible legal forum within which to vindicate its rights. An effective court system also serves as a vital check on other branches of government to ensure that laws are enacted and applied fairly and legally. Finally, an independent, well-functioning court system is an absolute prerequisite to a modern economy. USAID would support the efforts of the

[29] In order to improve legal services offered through the BBA, a decision was made in 2014 to increase the sum provided to lawyers for handling each case file from $250 to $400.
[30] USAID STRATEGY ON DEMOCRACY HUMAN RIGHTSAND GOVERNANCE, JUNE 2013 the strategy document provides a framework to support the establishment and consolidation of inclusive and accountable democracies to advance freedom, dignity, and development.

Ministry of justice and other donors in improving the court administration in order to reduce backlog, improve case management and increase transparency of the judicial system. This component will build upon the activities that have been implemented under SIJCAJ and other donors.

Activity 1:
Enhance and implement the Case Processing System (CPS) of the Enforcement Court which had been refurbished by SIJCAJ project. The CPS would improve the performance of the court and case records would be easier to access.

Activity 2:
Expand the Model Court Program and develop model court standards. USAID would select a pilot court(s) in agreement with the Ministry of Justice to replicate and propagate the EU court management system and provide technical assistance on a new backlog system, the project would develop Beirut Commercial Court as a potential model court, along with the Baabda and Tripoli courts. In addition, USAID would provide hardware, software systems, infrastructure, and training of judges and clerks at the selected locations.

Activity 3:
In cooperation with the HJC, USAID would continue to encourage the HJC to create an Administrative Office of the Court (AOC). Both activities were initiated by the SIJCAJ project. The AOC would guide the HJC to court administration reform efforts. The AOC would guide the change management committee at the HJC that was established under the SIJCAJ project. The AOC's objectives would include but not be limited to 1) change management, 2) court premises improvements, 3) records management, 4) court administration workshop, 5) court administration study tours, 6) court staff development and management, 7) assessing backlog of case files[31].

In partnership with the HJC and the JTI, USAID would assist in capacity building of the judges.

Activity 1:
Develop and implement participant training programs and to provide technical assistance to the JTI to improve the quality of training of judges. Training of judges would be on several issues to be determined by the JTI and the implementing partner for USAID. Study tours would also be organized and funded by USAID in partnership with JTI's management.

Activity 2:
Support the JTI in development of curriculums by developing a continuing legal education program. USAID would support the JTI by providing curriculum development assistance in order to build the capacity of judges based on modern methodologies and trends. In order to provide more practical training to the judges, USAID would establish a Moot Court facility at the JTI and provide technical expertise for the JTI. [32]

Activity 3:
In regards to the sitting judges, USAID would provide experts and technical assistance in implementing participant training courses, conferences (such as an annual judges conference), and workshops for members of the judiciary.

Activity 4:
As part of the sustainability plan for the justice system in Lebanon, USAID would assist in creating a fifteen year strategic plan. This activity would expand upon the efforts of the SIJCAJ in its pursuit of a Strategic Plan.

PROJECT II

DRG DO4: Improve development outcomes through the integration of Democracy, Human Rights, and Governance principles and practices across USAID's development portfolio.
Sub-Objective 4.3: Promote equality of opportunity and access to public goods and services, particularly with respect to poor and marginalized populations.
Project: Enhance Awareness of Individual Rights and Promote Equal Access to Justice Project.

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[31] SIJCAJ Project, Final Report
[32] Unlike judicial practice in the US, Lebanese judges are not specialized and may be rotated from, for example, a criminal court to a commercial court. When these types of rotation occur judges should receive training to facilitate moving from one specialization to another.

The objective of the project is to improve access to justice to vulnerable groups such as women, youth, and refugees and to disseminate information to the public regarding legal rights.

Activity 1:
Background on the Bar Associations:
The Beirut Bar Association (BBA) was established in 1919 followed by Tripoli Bar Association (TBA) in 1921. Both institutions have contributed effectively to the achievement of social justice and access to justice by assigning lawyers to represent indigent persons through a committee of lawyers (Legal Aid Committee). Both associations assume all expenses and fees for the legal services provided. The BBA receives approximately 500 cases per year, doubling in 2014 due to the deteriorating living standards of the Lebanese population, and the large number of Syrian refugees currently living in Lebanon.

The project would provide technical assistance to the Beirut and Tripoli Bar Associations' legal aid services. Assistance would include but not be limited to: 1) establish a legal aid unit within the detention centers to provide legal aid to Lebanese and refugees[33], 2) provide training to lawyers who will serve at the units and at the Bar Associations, 3) improve the case management system at the Beirut Bar association, 4) develop a public outreach campaign to promote the services provided by the legal aid units, 5) create a legal aid unit in Jdeideh court house.

Activity 2:
Establish a grant program for CSOs to cover the following areas:

1- Provide legal services to vulnerable groups (women, youth, refugees, detainees).
2- Develop a public outreach, media and education campaign to ensure all marginalized groups understand and are aware of their legal rights within the system and to promote legal services provided by the non-government organizations (NGOs).
3- Support judges at the Religious Courts to enhance their performance in issues such as due process and international human rights standards.
4- Promote mediation when conflicts arise between parties.
5- Support initiatives for the independence of the judiciary and for the bar associations.

3- ANALYTICAL REQUIREMENTS

The proposed activities have been developed pursuant to the findings in the Development and Governance (DG) Office USAID/Lebanon assessment entitled "Rule of Law in Lebanon-2015," which took into account lessons learned from the Mission's earlier attempts to strengthen initiatives in rule of law. The report indicated that the firm establishment of the rule of law is hindered by the inadequate capacities of the courts and judiciary and lack of independence of the judiciary.

4- MONITORING, EVALUATION, AND LEARNING

Performance monitoring involves the ongoing monitoring implementation of individual activities mentioned in the Concept Paper (CP) and the achievements of results at the activity, intermediate result and CDCS goal. For activity monitoring, USAID will track the contractor/grantee performances in meeting goals and achieving outputs.
(To be completed when funding is allocated and projects are approved by USAID/Lebanon)
DO:
IRs:
Sub IRs:
The CDCS for USAID/Lebanon was revised to cover the 2014-2018 strategy period. The Mission Performance Management Plan (PMP) is scheduled for completion in September 2015. The DG office expects to refine PMP

[33] In 2014, 3723 prisoners out of 6124 (60.79% of the total number) are in pre-trial detention for medium and long terms until the case is completed. This indicates a defect in the court systems whether due to slow trials or overload of cases, and sometimes wrongful use of the right to pre-trial detention. (Report from the Legal Aid Committee at the Beirut Bar Association).

indicators as early as 2016 during its Portfolio Review. Concurrently, a new DO could be added to the CDCS based on information contained in the ROL Assessment.
Periodic evaluations and assessments will be undertaken where appropriate and as needed to determine progress on activities and results achievements. It is expected that at least one evaluation conducted by a third party contractor, will be undertaken for each activity. As all of the activities planned in this CP provide assistance in new areas, mid-term evaluations of these activities is advised to identify what is achieving the intended results and what may need adjustment to achieve meaningful results.

I. Independence, Competency, and Accessibility of the Judiciary (ICAJ) Project, the mid-term and final evaluation should respond to the following question:

Has competency, effectiveness, and accessibility helped to enhance judicial independence in Lebanon?
Illustrative performance indicators:

1- Number of justice sector personnel who received USG training.
2- Number of USG-assisted courts with improved case management system.
3- Number of legal institutions and associations supported by the USG (JTI, HJC)
4- Annual number of positive modifications to legislation, regulations, or institutional policies to improve the justice system made with USG assistance.
5- Number of legal provisions, regulations and procedures designed to enhance judicial independence supported with USG assistance.

Illustrative intended results:

1- Improvements to court efficiency and transparency and competency.
2- Increased lawyers and public confidence in the courts.
3- The MOJ has committed resources for replication and maintenance.
4- Comprehensive system for Continuing Legal Education (CLE).
5- Increased competency in the judiciary.

II. Enhance Awareness of Individual Rights and Promote Equal Access to Justice Project, the mid-term and final evaluation should respond to the following question:

Have these activities affected the accessibility and efficiency of the justice system?
Illustrative performance indicators:

1- Number of legal aid centers supported by USG assistance.
2- Number of legal institutions and associations supported by the USG (BBA, TBA, CSOs).
3- Number of legal professionals that have received USG training.
4- Number of citizens receiving legal aid through institutions and associations supported by USG assistance.
5- Median number of days for a case between pre-trial detention and a court hearing date.

Illustrative intended results:

1- Increase in number of citizens received legal aid, disaggregated by gender.
2- Decrease in number of days in pre-trial detention.
3- Increase in number of legal aid service institutions and associations.
4- Increased competency in the legal profession.

5- PRELIMINARY SUSTAINABILITY ANALYSIS

Most of the activities planned under this CP involve technical assistance and training to strengthen institutional capacity or support reform. The strong commitment of the Ministry of Justice for judicial reform must be applicable to sustain reform. USAID/Lebanon must ensure that the counterpart has substantial involvement in the design and implementation of all activities.[34]

[34] The sitting the Chief Justice and the Minister of Justice indicated their support for the recommendations appearing in the ROL Assessment.

USAID must encourage each institution to budget for maintenance needs beyond the life of the activity. USAID will also seek from the MOJ, HJC, JTI, and other institutions to confirm a budget for recurring costs that maintain the equipment and software installed at the courts.

6- CUSTOMER/PARTNER OWNERSHIP

The Ministry of Justice will be the principal government counterpart for activity "Independence, Competency, and Accessibility of the Judiciary (ICAJ) Project" including signing and revising the agreements.

Who will be the partner for JTI training? Is this the Chief Justice/ HJC? *This authority is delegated by the Minister of Justice.*

Who will be the partner for the AOC? *All the activities under the ICAJ project would be under one agreement signed by the Minister except if USAID agrees with different parties to sign on the agreement as separate entities.*

Beirut Bar Association and Tripoli Bar Associations will be the counterparts for the activity "Enhance Awareness of Individual Rights and Promote Equal Access to Justice Project."

Local and international CSO's which shall be identified at a later stage to implement the "Access to Justice grants activity".

7- FUNDING REQUIREMENTS

1. USAID Contribution

The total USAID funding for the Rule of Law Program, is estimated (XXX) and will be obligated during the life of the projects. Through bilateral agreements, cooperative agreements, and grants, the XXXX funds will be used to finance the activities described in Table 1.

2. Government (or other) Contribution

The total GOL counterpart contribution anticipated to this program is estimated (XXX) and will include government employees' salaries.

3. In-Kind Contribution

No in-kind contribution is currently envisioned. However, the GOL contribution to the program is deemed necessary to achieve the program objectives.

The following table illustrates the total USAID and (institutions) contribution.

Illustrative Financial Plan (Table 1)

Activity	USAID ($)	Institution	In-kind
XXXX			
XXXXX			
Total			

4. POSSIBLE IMPLEMENTING MECHANISMS

USAID Proposed Methods of Implementation and Financing (Table 3)

Program	Methods of Implementation	Methods of Financing
Independence, Competency, and Accessibility of the Judiciary (ICAJ) Project	AID Direct Contract	AID Direct Payment
Enhance Awareness of Individual Rights and Promote Equal Access to Justice Project	Aid Direct Assistance (Grants/Cooperative Agreements through "Annual Program Statement")	Advance/Letter of Credit

5. PROPOSED DESIGN TEAM

The USAID (XX) Team (this would be determined by the Mission) will be responsible for managing and monitoring all activities under this CP. The (XX) Team will manage and monitor all contracts and grants. The Program Office, Financial Management Office, Procurement Office and Legal Office will provide support in their respective areas. A contracted intermediary organization may, if needed, provide day-to-day management and monitoring of some activities. The (XX) Team at USAID may collaborate with other offices at USAID and State Department in implementing activities.

11- OTHER DONOR ACTIVIES

The assessment team has consulted with other donors on strategic plans and program implementation. The EU is the largest donor in rule of law in Lebanon. Principal other donors active in the rule of law area include UNDP, The Swiss Embassy, UNHCR, Middle East Partnership Initiative, and Bureau of International Narcotics and Law Enforcement Affairs in areas such as case management, capacity building, legal education, and legal aid through civil society to Lebanese and the refugees population.

The IFC has introduced a project that aimed at introducing mediation in the judicial system as well as within everyday commercial life. Under this program, 17 judges were provided training through Centre for Effective Dispute Resolution (CEDR) mediation training and a mediation center was established at the Chamber of Commerce Industry and Agriculture (CCIA) in Beirut and at the Tripoli Bar Association. The project has ended in February 2015 and IFC is not willing to continue funding in this area unless parliament approves the law on mediation.

Through UNDP, the EU currently has one of the largest ongoing rule of law projects in Lebanon. The court management project includes automation of the courts, training of judges and clerks on the new system, networking infrastructure, and providing hardware to the courts. The EU project is to be implemented at the Beirut Court, Jedaida Court, and a (small) court in Jounieh.

In regards to legal aid, UNHCR has been providing legal and physical protection for refugees (mainly Syrians). The assistance is provided through 25 legal partners.

USAID regularly consults with other donors on strategies and program implementation in other areas. It is recommended that a Donor Assistance Group is organized to address democracy and governance issues, and rule of law in particular. Program coordination with other donors will be important during implementation to promote and maximize reforms, especially in the areas of court automation and training of judges.

12- PROCUREMENT PLAN

Project	Agent	Mode	Cost Estimate	MAARD Approval Date	Waivers (when needed)
Independence, Competency, and Accessibility of the Judiciary (ICAJ) Project	USAID/Lebanon	Rule of Law IQCs	$XXX	XX/XXXX	
Enhance Awareness of Individual Rights and Promote Equal Access to Justice Project	USAID/Lebanon	Annual Program Statement	$XXX	XX/XXXX	

Results Framework:

ANNEX II: ASSESSMENT STATEMENT OF WORK

ROL Assessment SOW (Draft update August 11, 2015).xps

ANNEX III: LIST OF DOCUMENTS

Name of the Document	Author of Document	Date of Document
Lebanon Rule of Law Assessment	USAID	March 2006
Lebanon Democracy and Governance Assessment	USAID	June 2011
Lebanon Democracy and Governance Assessment Update	USAID	November 2013
SIJCAJ project final evaluation report	USAID	June 2011
Country Development Cooperation Strategy (CDCS) USAID/Lebanon	USAID	February 2015
USAID Guide to Rule of Law Country Analysis: The Rule of Law Strategic Framework	USAID	2010
Justice and War	Judge Choucri Sader	October 2008
Basic Principles on the Independence of the Judiciary	United Nations	December 1985
Recommendations of the Council of Europe on Judges: Independence, Efficiency and Responsibilities	Council of Europe	November 2010
The Bangalore Principles of Judicial Conduct	Judicial Group on Strengthening Judicial Integrity	2002
Beirut Declaration Recommendations	First Arab Conference on Justice	June 1999
Cairo Declaration on Judicial Independence "Supporting and Promoting the Independence of Judiciary"	Second Arab Justice Conference	February 2003
Lebanese Constitution Promulgated May 23, 1926 with its amendments	GOL	1995
Rule of Law, Quick Scan Lebanon Prospects and Challenges, HiiL Rule of Law Quick Scan Series	HiiL Innovating Justice	April 2012.
Action plan for EU-Lebanon Partnership and Cooperation	EU	(2013-2015)
Legal Aid in Lebanon	Embassy of Switzerland in Lebanon & Open Society Foundation	2014
National Plan on Human Rights Series Independence of the Judiciary	UNDP	2008
Executive Plan for the National Plan on Human Rights in Lebanon 2014-2019	UNDP	2013
Lebanon Legal and Judicial Sector Assessment	World Bank	2003
The Lebanese Legal System	Chibli Mallat, Lebanon report	1997

ANNEX IV: LIST OF STAKEHOLDERS INTERVIEWED

Major General Ashraf Rifi, Minister of Justice
Mr. Chakib Cortbawi, former BBA President, former Minister of Justice
Mr. Ziad Baroud, Lawyer, former Minister of Interior and Municipalities
Mr. Ibrahim Najjar, Professor of Law at USJ, former Minister of Justice
Mr. Hassan Krayem, Governance Portfolio Manager
Ms. Gaelle Kibranian Zavzavadjian, Governance Programme Officer, Private Sector & Gender Focal Point
Mr. Arslan Sinno, Owner of Dora Flour Mills and Vice President of AMCHAM
Mr. Walid Nasser, Lawyer, Nasser & Associates Law Office, Member of AMCHAM
Ms. Paula Chaktoura, Project Officer at AMCHAM
Mr. Samuel Cheung, Lawyer, Senior Protection Officer, UNHCR
Mr. Richard Akkiki, Lawyer Assistant Protection Officer, UNHCR
Ms. Barbra Batlouni, Country Director of AMIDEAST
Mr. Rohan Bredett, Lawyer, UNDP ROL Advisor
Ms. Christelle Samaha, Community Security and Access to Justice Project Coordinator
Vida Hamd Dao, Policy Officer for Political and Humanitarian Affairs at Netherlands Embassy
Mr. Chasper Sarott, Deputy Chief of Mission, Embassy of Switzerland
Judge Sami Mansour, Former JTI President
Ms. Dala Ghandour, Lawyer and Consultant at Lebanese Mediation Center at CCIA Beirut
Dr. Karim Al Mufti, Lawyer and Director of Legal Aid Clinic at Sagesse University
Mr. Samir Hammoud, General Prosecutor, Vice-President of the High Judicial Council
Ms. Carol Khouzami, Private Sector Development Specialist, IFC
Dr. Joey R. Ghaleb, Senior Economist & Public Sector Specialist, Governance Global Practice, World Bank
Ms. Maya Mansour, Lawyer and Professor at Beirut Arab University, Member of the Board of the BBA Human Rights Institute.
Ms. Ghida Annani, Director of ABAAD
Judge Jean Fahed, First President of the Court of Cassation, President of the High Judicial Council
Mr. Akram Baassiri, Head if the Inspection Unit & Member of the High Judicial Council
Judge Marwan Karkabi, Member of the High Judicial Council
Judge Mohamad Mortada ,President of the First instance court of mount Lebanon & Member of the High Judicial Council
Judge Jean Tannous, Judge of First Instance Court & Member of the Secretariat of the HJC
Ms. Ghada Chamseddine, Judge of the Execution Court of Beirut (Model Court implemented by USAID)
Ms. Lamiss Hajj, Trainee Judge
Judge Chukri Sader, President of Council of State (Majlis Chawra)
Ms. Ghida Annani, Director of ABAAD
Ms. Rola Al Masri, Program Officer at ABAAD
Mr. Georges Jreige, President of Beirut Bar Association
Mr. Georges Feaani, Lawyer, Responsible for Legal Aid Commission at BBA
Ms. Rania Homay, Secretary of the Legal Aid Commission at BBA
Mr. George Yazbeck, Lawyer, Communication Officer, Member of Beirut Bar Association
Ms Mona Hanna, Lawyer, Director of Lebanese Association for Mediation & Conciliation (LAMAC)
Mr. Karim Nueihed, Deputy Director of Lebanese Association for Mediation & Conciliation (LAMAC)
Judge Maysam Al Noueiri, General Director at Ministry of Justice
Judge Nada Dakroub, President of the Judicial Training Institute, President of the 2nd chamber of the court of appeal of Beirut (Indictment Chamber).

Judge Suheil Abboud, Director of the Judicial Training Institute, President of the 4th chamber of the court of appeal of Beirut
Mr. Ali Ashmar, Lawyer, Founder of Justice without Limit
Mr. Wissam Khalil, Lawyer, Founder of Justice without Limit
Mr. Wael Hammam, Lawyer, Member of Justice without Limit
Mr. Hassan Mortada, Lawyer, Member of Justice without Limit
Dr. Amal Abdallah, Professor at Lebanese University, Former Director for EU projects on ROL
Judge Claude Karam, General Prosecutor for Mount Lebanon
Judge Maher Cheaito, Assistant General Prosecutor for Mount Lebanon
Judge Rida Raad, First president of the Court of Appeal of North Lebanon
Judge Katia Andary Fenianos, Member of the Court of Appeal of North Lebanon
Judge Rania Al Asmar, Member of the Court of Appeal
Lawyer Hani Marabi, Advisor to the Minister of Justice Ashraf Riffi
Fatima Braydi, Chief Clerk of Criminal Misdemeanor cases of North Lebanon
Lawyer Fahed Moukadem, President of the Tripoli Bar Association
Lawyer George Akleh, Member of the Board of the Tripoli Bar Association
Lawyer Neami Kalawan, Member of the Board of the Tripoli Bar Association
Judge Ussama Laham, First President of Appeal Court of Bekaa
Judge Farid Kallas, General Prosecutor of Bekaa
Judge Issam Daher, Member of the 2nd chamber of the court of appeal of Bekaa (Indictment Chamber).
Judge Imad Al Attat, Advisor for the Court of Appeal for Criminal Cases
Judge Kamal Al Mikdad –Assistant prosecutor of Baalbeck
Judge Ali Araji, President of the first instance court of Bekaa
Judge Nadia Akl-unique Judge for criminal cases, Member of the Court of Appeal of Bekaa
Judge Afaf Younis,–Member of the court of appeal of Baabda (Indictment Chamber)
Judge Antoine Saghbini, Member of the Mount Lebanon Criminal Court & Member of the Consultative Elected Committee of Mount Lebanon Courts
Ms. Aline Matta former ABA country director -in house international advisor of Alem Law firm
Lawyer Farid Khoury BBA member
Lawyer Souhad Ghorayeb BBA member
Ms Joanna Hawari Bourjeili –Director of USJ Professional Mediation Center (CPM)
Lawyer Georges Feghali ,Member of USJ Professional Mediation Center (CPM)
Mr. Karim Torbey, Lawyer, Director of the legal clinic of the USJ Law School
Ms. Lena Makhlouf, Lawyer, member of the legal clinic of the USJ Law School
Mr. Alexis Loeber Head of cooperation EU delegation
Mr. Samir Gharbaoui,Cooperation section EU Delegation
Dr. Joseph Torbey, Chairman, General Manager of Credit Libanais Group, Chairman of Association of Banks in Lebanon
Mr. Oussama Safa, International development expert, Professor LAU
Mr. Hasan El Hage Chehade, Magistrate Sharia of Beirut, Lebanese Charia Court

Tour of the Judicial Training Institute
Tour of the Model Court
Tour of Baabda Court
Tour of Tripoli Court
Tour of Zahle Court

ANNEX V: LIST OF DONOR PROJECTS

Donor	Project /Area	Priority Area
EU	EU planned program in collaboration with MOJ-Present to 2016	The justice sector in Lebanon is a priority area for the EU with on-going projects totaling € 22 million. The justice sector in Lebanon is a priority area for the EU with on-going projects in justice or prison administration. As of Sept 2015, EU has around 5 million left in its budget for the strategy period of 2012-2016.
EU, UNDP & OMSAR & MOJ	Modernization of Lebanese Justice System, ENPI 2012-2015, € 10 million	This project is part of the judicial reform programme with the specific aim to consolidate the Rule of Law in Lebanon. It focused on automating the Beirut Court system through an extension of the Ministry of Justice's IT Platform for a more productive, efficient, transparent and accessible justice to all. One result is the establishment of a user-friendly court system set in place for litigants, attorneys, judges and court staff. The Automation of the Beirut Courts project is implemented and executed by the Office of the Minister of State for Administrative Reform (OMSAR) in close collaboration with the Ministry of Justice. It has three components Automation (€ 7 million), Training (€ 0.9 million) and Access to Justice (€ 1.1 million) components.
EU & OMSAR	Strengthening Human Resources Management Capacities, ENPI 2013-2015, €1.627 million	The aim of this project is to enhance the alignment of organizational structures, processes and resources with an institution's strategic objectives, priorities and mission. This project is implemented by OMSAR. The beneficiaries are Ministry of Industry, Ministry of Health, Ministry of Social Affairs, Ministry of Tourism, Court of Accounts, and Civil Service Board.
EU & OMSAR	Technical Support for the Modernization of Public Procurement in Lebanon, ENPI 2014-2016, €1.6 million	The aim of this programme is to support public procurement reform through identifying and addressing major performance and management challenges, areas of risk of fraud, waste, abuse and mismanagement. This project is implemented by OMSAR. The beneficiaries are Ministry of Industry, Ministry of Health, Ministry of Social Affairs, Ministry of Tourism, Court of Accounts, and Civil Service Board.
EU & OMSAR	Technical Assistance to the Administrative Simplification in Selected Ministries in Lebanon, ENPI 2014-2016, €2.07 million	This programme will contribute to improve responsiveness of the administration to the demands of the general public and business community. Simplification of procedures will allow the local administrations to operate in a transparent, efficient, and timeliness manner. This project is implemented by OMSAR. The beneficiaries are Ministry of Industry, Ministry of Health, Ministry of Social Affairs, Ministry of Tourism, Court of Accounts, and Civil Service Board.
EU & OMSAR	Technical Assistance to the Strengthening of Strategic Planning Capacities in Selected Ministries in Lebanon, ENPI 2014-2016, €0.950 million	This programme aims at enhancing the alignment of organizational structures, processes and resources with an institution's strategic objectives, priorities and mission. This project is implemented by OMSAR. The beneficiaries are Ministry of Industry, Ministry of Health, Ministry of Social Affairs, Ministry of Tourism, Court of Accounts, and Civil Service Board.
EU & UNODC	Transfer of Prison Management from MOIM to MOJ 2008-2012	The UN Office on Drugs and Crime (UNODC) assists the MOIM in transitioning prison oversight to MOJ. The project is finished, but the MOJ is continuing to transfer the juvenile and the women prisons under its authority.

EU/CERSA	Security and Rule of Law (SROL)- Centre d'Entraînement et Renforcement pour la Sécurité Aéroportuaire (CERSA) 2009-2011	EU support focused on improving the ISF training capacity, mainly in the field of criminal investigation, through technical assistance, equipment and training, with the view of setting up the Judicial Police Practical Training Centre in Aaramoun.
EU	Prevention and Rehabilitation Victims of Torture and Other Ill-treatment, AJEM 2009-	EU support focused on the rights of detainees during police custody, pre-trial detention and incarceration; improve detention procedures; work with security forces to promote respects for human rights, refurbish arrest centers.
UNHCR	Provides Legal and Physical Protection for Refugees (predominately Syrian)	Working with General Security and Internal Security Forces to provide protection, legal aid assistance, asylum seeking, and capacity building through a network of 25 legal partners. Interested in expanding on the Model Police Station concept.
IFC/EU/Swiss Secretariat for Economic Cooperation	Mediation Centers 2013-2015	Worked to create a court-referred mediation program to help resolve commercial disputes efficiently. It trained and certified around 29 mediators through CEDR program and supported the establishment of mediation centers at the CCIA Beirut and Tripoli Bar Association. They also submitted a draft law to Parliament to institutionalize mediation within the Judicial System to helps reduce financial burdens on the private sector and the disputes backlog before the courts.

ANNEX VI: MODEL COURT PROGRAM IN MACEDONIA

Courts of Macadonia

ANNEX VII: LETTER FROM MOJ TO MOF

الجمهورية اللبنانية

وزارة العدل

الوزير

م: ٣/٤٤٥٦

بيروت في ٢٠١٥/٨/٢٥

جانب معالي وزير المالية الأستاذ علي حسن خليل المحترم،

الموضوع : تخصيص باب مستقل لمحكمة التمييز في الموازنة العامة.

بالإشارة إلى الموضوع المنوّه به أعلاه، نحيطكم علماً أن المادة ٢٦ من المرسوم الاشتراعي رقم ٨٣/١٥٠ (قانون القضاء العدلي) تلحظ أن الرئيس الاول لمحكمة التمييز يمارس، فيما خصّ محكمة التمييز، الصلاحيات المالية والادارية التي تنيطها القوانين والانظمة بالوزير، باستثناء الصلاحيات الدستورية، وهي مادة مماثلة للمادة ٣ من القانون المنفذ بالمرسوم رقم ١٠٤٣٤ تاريخ ١٩٧٥/٠٦/١٤ (نظام مجلس شورى الدولة) التي تنيط برئيس مجلس شورى الدولة صلاحيات الرئيس التسلسلي الاعلى من الناحيتين الادارية والمالية؛

إن استحداث فصل مستقل لمحكمة التمييز في الموازنة العامة اسوة بما هي عليه الحال في مجلس شورى الدولة، من شأنه تدعيم استقلال محكمة التمييز ورفع مكانتها.

لذلك نأمل من معاليكم، التفضّل بالإيعاز لمن يلزم من أجل استحداث فصل مستقل لمحكمة التمييز في الموازنة العامة لعام ٢٠١٦ كخطوة خطوة إضافية في الوصول إلى سلطة قضائية مستقلة في لبنان.

وتفضّلوا بقبول الاحترام.

وزير العدل

اللواء أشرف ريفي

ANNEX VIII: CHANGES IN KEY POSITIONS

Key Position	Name of the Person Filling the Position in 2006	Name of the Person Filling the Position in 2015
President	Mr. Emile Lahoud	N/A
Prime Minister	Mr. Fouad Sanyoura	Mr. Tammam Salam
Minister of Justice	Mr. Charles Risk	Mr. Ashraf Riffi
General Director of Ministry of Justice	Judge Omar Natour	Judge Maysam Al Noueiri
President of High Judicial Council	Judge Tannios El Khoury	Judge Jean Fahed
President of the Court of Cassation	Judge Tannios El Khoury	Judge Jean Fahed
President of the Council of State	Judge Ghaleb Ghanem	Judge Shukri Sader
General Prosecutor	Judge Saeed Mirza	Judge Samir Hammoud
Director of the Judicial Inspection Unit	Judge Mohamad Ouwaydah	Judge Akram Baassiri
President of the Judicial Training Institute	Judge Sami Mansour	Judge Nada Dakroub
Director of the Judicial Training Institute	Judge Suheil Abboud	Judge Suheil Abboud
President of the Beirut Bar Association	Lawyer Boutros Doumit	Lawyer Georges Jreige
President of the Tripoli Bar Association	Lawyer Abdel Razak Dabliz	Lawyer Fahed Moukadem

ANNEX IX: LEBANON HISTORIC BACKGROUND

Lebanon was created in 1920 in its present borders under the post-World War I's French Mandate. The country's Republican Presidential system was enshrined in the first 1926 constitution that was modeled after the French one. In 1941, Lebanon gained its independence from France, whose forces were evacuated from the country in 1943. That same year a gentlemen's agreement between the country's ruling elite saw to it that the positions of President, Speaker of Parliament and Prime Minister be apportioned to a Maronite, a Shiite and a Sunni respectively. This allocation was predicated on the results of Lebanon's only population census in 1932 the results of which indicated that the Christians were the majority in the country.

While Lebanon's constitution nominally delineated the separation of powers between the three major institutions, the reality is that the political system was based on consensus between leaders of the major sects and masked a modern version of feudalism. The same constitution permitted the choice of Ministers of Cabinet from Parliamentarians. With several sects staking a claim in the political system, the weakness of the political system became endemic and, in a competition for influence between religious sects, support of foreign powers was constantly sought by political leaders.

Modern-Day Lebanon

From 1975-1990 Lebanon experienced a destructive civil war that brought havoc to the country's infrastructure and incurred a huge death toll with scores of injured, disabled or disappeared. A new power-sharing agreement – the Taif Accords – ended the violence and brought about a new political balance of power. Consequently, Lebanon became a parliamentary system with most of the President's executive powers transferred to the Council of Ministers. The Taif Accord strengthened the prerogatives of parliament by extending the mandate of the Speaker to four years (instead of two); empowered individual ministers; recognized the country's eighteen different sects; promulgated a reinforced decentralization and administrative gerrymandering law; provided for a bi-cameral legislative chamber; and established a high constitutional court. Following the civil war, Lebanon came under the tutelage of Syria which stationed several thousand troops in the country and installed a proxy mode of governance that saw to the implementation of selected Taif reforms.

Immediately after the war, Lebanon embarked on a massive reconstruction and reform plan. Among the priorities was the rebuilding of the country's devastated infrastructure, repatriating more than 16,000 internally displaced families and restoration of a modicum of social cohesion. Most of the Taif reforms that addressed the democratization of Lebanon were not implemented or seen through. For starters, the political governance saw the introduction of a troika *modus operandi* that necessitated the consensus of the President, the Speaker of the House and the Prime Minister on most reform decisions which made strong effective decision-making unattainable and all too often punctuated policy-making with long and stubborn deadlocks. Political agreements – including major reforms and implementation of the Taif clauses – became a subject of settlement and deal-making rather than proper policy design and development.

Postwar legislative and local elections were largely engineered and overseen by Syrian intelligence officers to ensure loyal and pliant parliament and municipalities. Most opposition figures were co-opted, silenced or exiled. Media and civil society remained strong, with a semblance of independence. An unfortunate development in the post-Taif period is the passing of a general amnesty law that forgave all crimes committed during the civil war and hence stymied any efforts to establish the truth, promote transitional justice and investigate the fate of 17,000 disappeared during the 15-year violence.

ANNEX X: Figures of Cases in Lebanese Courts

أرقام الورود والفصل في محاكم لبنان لعام ٢٠١٣-٢٠١٤

المحاكم		المحافظات							
		بيروت	جبل لبنان	الشمال	الجنوب	البقاع	النبطية	المجموع	الفارق
التمييز المدنية	الوارد	1001						1001	86
	المفصول	915						915	
التمييز الجزائية	الوارد	1131						1131	117
	المفصول	1014						1014	
الجنايات	الوارد	917	1150	459	163	1723	169	4581	1125
	المفصول	838		419	228	678	173	3456	
الهيئة الاتهامية	الوارد	1695	792	2459	954	2138	614	8652	1008
	المفصول	1630		2369	866	2062	359	7644	
استئناف الجنح	الوارد	488	704	599	487	604	382	3264	155
	المفصول	618		460	422	641	269	3109	
دائرة التحقيق	الوارد	2187	—	3517	1013	3428	—	10145	3160
	المفصول	2214	—	1698	947	2126	—	6985	
الاستئناف المدنية	الوارد	1659	668	757	278	292	93	3747	167
	المفصول	1512		766	244	343	92	3580	
الغرف الابتدائية	الوارد	1074	3114	3631	402	582	160	8963	1340
	المفصول	1320		2829	211	520	130	7623	
منفردون جزائي	الوارد	2592	22489	12137	3481	4987	1223	46909	9340
	المفصول	2045		7893	3431	6318	1135	37569	
منفردون مدني	الوارد	720	6251	3880	1941	2849	1562	17203	229
	المفصول	826		3781	1733	2550	1224	16974	

ANNEX XI: Lebanon Prison Population (Sept. 2015)

برنامج ادارة السجون الممكننة

احصاء عددي بالنزلاء الموجودين في سجون لبنان

الأحداث	موقوف	محكوم	انتهاء حكم	قيد المعالجة	العدد
جناح الأحداث	١١٣	١٠	٠	٠	١٢٣
مركز القاصرات	٣	٢	٠	٠	٥
المجموع	١١٦	١٢	٠	٠	١٢٨

الرجال	موقوف	محكوم	انتهاء حكم	قيد المعالجة	العدد
سجن رومية	١٥٩٨	١٤٤٣	٠	٦	٣٠٤٧
سجن القبة-رجال	٨٠١	٢٧٧	٠	٠	١٠٧٨
سجن زحلة	٥٠١	٣٠٥	٠	٠	٨٠٦
سجن جب جنين	٦٣	٣٨	٠	٠	١٠١
سجن بعلبك	٤٣	٦١	٠	٠	١٠٤
سجن تبنين	٥٦	٤٤	٠	٠	١٠٠
سجن النبطية	٧٣	٥٣	٠	٠	١٢٦
سجن عاليه	٥٣	٤٠	٠	٠	٩٣
سجن صور	٥٢	٥٦	٠	٠	١٠٨
سجن جزين	٥٢	٣٠	٠	٠	٨٢
سجن حلبا	٤١	٢٤	٠	٠	٦٥
سجن راشيا	٤١	٢٠	٠	٠	٦١
سجن اميون	٣٢	٢٣	٠	٠	٥٥
سجن جبيل	٢٢	٢٢	٠	٠	٤٤
سجن البترون	٢٩	٢٩	٠	٠	٥٨
سجن دوما	٣	١٨	٠	٠	٢١
سجن بنت جبيل	١٠	٢٩	٠	٠	٣٩
سجن سراي طرابلس	١٢	١	٠	٠	١٣
سجن مرجعيون	٢٠	١٩	٠	٠	٣٩
المجموع	٣٥٠٢	٢٥٣٢	٠	٦	٦٠٤٠

النساء	موقوف	محكوم	انتهاء حكم	قيد المعالجة	العدد
سجن نساء بعبدا	٤٧	٣٤	٠	٠	٨١
سجن القبة-نساء	٧٣	٢٤	٠	٠	٩٧
سجن برير الخازن	٢٧	١٧	٠	٠	٤٤
سجن نساء زحلة	٣٥	١٤	٠	٠	٤٩
المجموع	١٨٢	٨٩	٠	٠	٢٧١
مجموع عام	٣٨٠٠	٢٦٣٣	٠	٦	٦٤٣٩
النسبة المئوية	٥٩,٠٢	٤٠,٨٩	٠,٠٠	٠,٠٩	١٠٠

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For more information, please visit
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