



**STRENGTHENING THE INDEPENDENCE OF THE JUDICIARY
AND CITIZEN ACCESS TO JUSTICE IN LEBANON**
A USAID Project Implemented by National Center for State Courts

**Strengthening the Independence of the Judiciary and Access to Justice
Lebanon SIJCAJ Project**

**Quarterly Progress Report No. 5
January 1, 2009 – March 31, 2009**

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DISCLAIMER

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OVERVIEW

The SIJCAJ Project (SIJCAJ) commenced its second year in a position not only to build upon first year achievements but also to expand the scope and depth of programmatic assistance to Lebanese justice sector counterparts. A major expansion of project assistance, which SICJAJ had proposed and developed during the second half of Year 1, was concluded with a contract modification signed on March 8. The contract modification provides for the implementation of a long-term strategic plan for the justice sector and preparation of architectural designs and specifications, including bid documentation, for the renovations of Judicial Training Institute (JTI) and the project's model court, the Beirut Judgment Executions Court. These two additional tasks are responsive to local counterpart needs, present USAID and SIJCAJ with opportunities to have high-level, visible impact within the judiciary, and will ultimately promote long-term justice sector best practices and sustainability. During the reporting period, SIJCAJ dedicated substantial time and effort to the contract modification process and, in particular, to preparing the procurements for architect-engineer services and construction works for the renovation projects.

In early 2009, SICJAJ submitted its Year 2 work plan, which targets underlying contract goals and builds upon Year 1 results. During Year 1, SICJAJ developed good professional ties and collaborative relationships with local justice sector counterparts. The Year 2 work plan emphasizes intensive programming with these key justice sector counterparts: the Supreme Judicial Council (SJC), Ministry of Justice (Mom), JTI, the Beirut and Tripoli Bar Associations, and the courts. As the Year 2 work plan evinces, the SIJCAJ remains focused on core contract goals and deliverables: (1) improved JTI curriculum development and judicial candidate recruitment/training, (2) case backlog reduction, streamlined case processing timelines, and court administration best practices in a model court setting, (3) the adoption of a judicial ethics code, and (4) improved Bar Association procedures for the appointment or legal aid counsel, a process for monitoring and evaluating the quality of representation, and a sustainable training program for lawyers that improves lawyer competence. A major, overall thrust of the Year 2 work plan is to enhance significantly local support for and capacity to promote independence of the judiciary. The work plan activities address many quarters of the judiciary and, by doing so, are designed to generate broad-based support within the judicial and legal communities for strengthening justice sector institutions. This support will be critical to successful implementation of the strategic planning process. SIJCAJ is currently laying the foundation for the strategic planning process and will dedicate substantial resources to this initiative in the next and subsequent quarters.

On a separate note, during the reporting period SIJCAJ advanced democracy and governance objectives with the award of grants to civil society organizations active in the justice sector. SICJAJ awarded three grants totaling \$75,000 and provided training/assistance to the CSOs in grant management and implementation. SICJAJ will monitor CSO grant performance and look to incorporate these CSOs in broader project initiatives that merit CSO and public participation.

Lastly, the Chief of Party and the International Court Administration Advisor departed from the project. At the close of the reporting period, NCSC was in the process of identifying qualified replacements to be placed in the field during the next quarter. NCSC was preparing to dispatch additional home office support to ensure continuity of project programming.

For convenience, this report follows the structure of the Year 2 work plan. A more detailed description of project activities is presented under the individual tasks listed below.

I. TASK I JUDICIAL TRAINING INSTITUTE (JTI) CAPACITY BUILDING

Subtask I.1 Renovation of the JTI Institute and Follow-on Needs Assessment

During this Quarter, the Project prepared the Request for Proposal documents necessary, as set out in the FAR, to engage an Architect-Engineer/Project Manager (A-E/Project Manager) for the refurbishment of the JTI. SIJCAJ has coordinated closely with USAID Lebanon and Regional Office Cairo on the selection of an A-E/Project Manager. SIJCAJ is conducting a procurement process in accordance with FAR 36.6 and Part 15. At the close of the reporting period, SIJCAJ was prepared to solicit applications from A-E firms and conduct an interview process to identify the most qualified firms. Thereafter, SIJCAJ will conduct negotiations with the most qualified firm. Thereafter, SIJCAJ will engage an A-E firm and, in accordance with Task 7 activities, assess the JTI facility, propose design alternatives, hold a workshop for local counterparts on architectural design, prepare bid documentation, and solicit construction works, subject to USAID approval and funding. SIJCAJ is expediting this matter and anticipates that the A-E firm will complete all design work during the next quarter so that SIJCAJ can solicit construction works. The renovation of the JTI facility and completion of construction works are expected to last an additional 4-6 months. The renovation includes five floors and will result in a modern training facility with a computer training room offering forty computer stations for distance and electronic learning, computers for the various offices, photocopy machines, a facsimile machine, a server and internet connection.

In view of the fact that the JTI will not be completed by the time the next judge trainee course commences, the Project is working with senior members of the judiciary, including HJC President Ghanem and JTI President Mansour, to locate and prepare a temporary, interim facility for the training of the newly selected judicial candidates. SIJCAJ anticipates the next course for these fifteen judge trainees will probably not commence until at least June or July of 2009 and is planning accordingly.

Subtask I.2 JTI Curriculum Development and Training of Judges

The Curriculum Development Committee (CDC) for the JTI was formed on 27 October 2008 and it consists of the JTI President and Vice President, the European Community's ACOJURIS Project Manager and Project staff. The Project advertised for a curriculum development expert and received several CVs. Professor Amal Bouzeineddine of American University Beirut's Education Department submitted her CV and she has extensive consultancy experience, including with USAID, on curriculum development and the CDC expressed interest in working with her in the future. JTI President Mansour requested the CDC to postpone discussions about curriculum development until mid or late 2009 so the JTI can focus on the recruitment process for judge trainees. The Project expects to provide JTI with an analysis and recommendations on an improved JTI curriculum in the 6th Quarter. It is SIJCAJ's intention to consult closely with JTI leadership and provide technical assistance for curriculum development. In light of ACOJURIS's curriculum development and training assistance to JTI, SIJCAJ is attempting to identify targeted needs for curriculum development

and will leverage renovation of the JTI facility as means to obtain JTI leadership buy-in for follow-on technical assistance and curriculum development in discrete areas.

Subtask I.3 Develop and Implement a Continuing In-Service Training Program

While the JTI does not train sitting judges, it does train those candidates that passed the JTI competition exams, i.e., the judge trainees. As discussed, SIJCAJ is assisting JTI with the accommodation and training of a new class of judicial candidates. In addition, SIJCAJ successfully assisted JTI with the recruitment/selection of judicial candidates (see Subtask I.5). In a break-through meeting between JTI officials and Project staff, JTI officials requested Project staff to assist the JTI in holding a series of seminars for sitting judges on selected legal issues and the Project agreed. The first such seminar was held on 7 March at the Movenpick Hotel on arbitration. Along with Project staff, the seminar was organized by the President of JTI, Sami Mansour, and Nayla Comair Obeid, a Lebanese attorney specializing in arbitration. The seminar was held under the patronage of Minister of Justice Ibrahim Najjar. There were sixty-three participants at the seminar. The Project will continue to assist JTI in similar seminars throughout 2009. SIJCAJ will assist JTI in conducting two to three more seminars. SIJCAJ is currently in discussions with Mansour and About about the strengthening JTI capacity for judge in-service training and is prepared to provide targeted assistance. Progress will hinge upon whether JTI leadership will recognize the opportunity and critical need to provide judges with in-service training.

Subtask I.4 Develop JTI Library Capacity

In anticipation of a newly renovated and modern JTI facility, the Project will procure legal material for the JTI library. The Project has held discussions with one of its partners, Sader Publishing, on the provision of legal material for the new library. In addition, the Project contracted with a local web development company, Koein s.r.l., to create a high quality JTI website that would have, among other things, a legal search engine and a legal database. The website and search engine provides easy access to JTI's library materials and automate the library through a Library Inventory Management Module (LIMM) that lists JTI library's books, publications, and other resources. Koein completed the website and presented the website to approximately sixty judges at the start of the 7 March arbitration seminar at the Movenpick Hotel. Koein gave a demonstration of website's search engine (in Arabic) and the legal database. The website's internet address is temporarily <http://www.jtilebanon.com>.

With the assistance of local partners, SIJCAJ is working with JTI leadership in developing modern learning techniques and providing legal resources. In the 6th Quarter, Koein will train JTI staff in and a webmaster in website management, including how to upload research material and manage the web site's legal database. Subsequently, SIJCAJ will explore with the JTI leadership a strategy for on-line access library resources and training materials.

Subtask I.5 Improve JTI Capacity to Recruit/Select Judicial Candidates

Earlier JTI officials and members of the SJC requested the Project to provide an expert to develop a psychological selection tool as a component of the entry exam for JTI. The Project located and hired Dr. Charlotte Karam, a professor at AUB who is an expert in psychological testing and evaluation. Dr. Karam briefed JTI officials on her background and ideas about adding a psychological test to JTI's entrance exam. JTI officials approved the

Project's hiring of Dr. Karam for this purpose. Dr. Karam completed and submitted her psychological development examination and protocol in January 2009. On 11 February 2009 Dr. Karam and her team provided training to the Supreme Judicial Council on the use of the psychological selection tool. The training lasted for approximately three hours and the members of the Supreme Judicial Council later used the psychological selection materials in their interview process for the JTI examinations. It is expected that Dr. Karam will assist the JTI with development of a handbook, provide training, and institutionalize examination best practices.

This assistance is already resulting in the selection of more qualified candidates through a more fair and transparent process. Since the last Quarter, the SJC conducted examinations for the next class of judge trainees. Approximately 950 Lebanese law school graduates competed in the competition to enter the judiciary and fifteen applicants were selected.

2. TASK 2 ENHANCE JUDICIAL INDEPENDENCE

Subtask 2.1 Foster Institutional Consensus on Judicial Independence Reform

At the close of Year 1, it became manifest that some consensus is lacking among justice sector institutions on the direction of judicial independence and reform. Equally, while Lebanon has reformed its judiciary, the reform process has not been cohesive or immune from political influence. From an implementation standpoint, there is a need to make sense of past reforms and cast them in a light that illuminates a path forward. In the second half of Year 2, SIJCAJ will deliver a judicial independence and reform assessment as a strategy for raising project visibility and foster close working relationships with justice sector institutions. More importantly, it will offer an opportunity to develop credibility with progressive forces in the justice sector. This will become particularly important in the post election period, when there could be changes in leadership and the political landscape. SIJCAJ will use the assessment to host a further colloquium on the independence of the judiciary during the fall period. These efforts will afford the opportunity for greater institutional consensus on the direction of judicial reform and enhancing judicial independence and should further garner support for the strategic planning process. SIJCAJ is currently preparing a informational base to support the assessment, including legal documentation.

Subtask 2.2 Justice Sector Strategic Planning

As mentioned in the overview, the March 08 contract modification resulted in an expansion of SIJCAJ technical assistance to the Lebanon judiciary in a key area of strategic planning. SIJCAJ prepared a detailed concept paper and cost analysis to support the strategic planning process. The concept paper is attached to the Year 2 work plan as Annex 3. Immediately subsequent to the contract modification, SIJCAJ began recruitment of qualified experts to lead the strategic planning process. At the close of the reporting period, SIJCAJ had identified a short-list of qualified experts. In the next quarter, SIJCAJ expects to identify a core team of experts, finalize scopes of work, and field the expert team to conduct a scoping exercise that would include local organizational readiness, stakeholder analysis, and consensus on methodology and commitment. The expert team will also evaluate the role of local project partners in the strategic planning process. Depending upon the experts' recommendations, the strategic planning process could last six to nine months.

Subtask 2.3 Improved Foundation for Judicial Ethics Reform

In January 09, Judicial Ethics Expert Greg Mize met with high-ranking officials within the judiciary to discuss in more depth the status of the drafting of a new code of judicial ethics for the Lebanese judiciary. Judge Mize prepared an initial evaluation that described the challenges and issues and offered recommendations on systemic and practical matters. Under the Year 2 work plan, Judge Mize will return in the next quarter to advise the SJC and the Moj on the progress of the judicial code of ethics process and assess the judicial disciplinary process and procedures. Ethics and discipline are closely related matters and central to judicial independence and accountability. As the Lebanese authorities have lost some momentum in the drafting of codes of judicial ethics, Judge Mize's follow-on consultancy can serve to move the drafting process forward.

In addition to Judge Mize's consultancy, on January 23-24 SIJCAJ's local partner, the Lebanese Center for Policy Studies (LCPS), organized a two-day colloquium that involved the participation of a number of Lebanese judges and judges from regional countries. Judge Mize delivered a presentation on approaches to judicial ethics in the United States to Lebanese judges. The colloquium centered on the following themes: (1) judicial groups in Lebanon and the Arab World, (2) Judicial Ethics: Basic Rules and Codification, and (3) Judicial Relations with Political and Administrative Authorities. The event was opened by the SIJCAJ Chief of Party and inaugurated by the President of the Supreme Judicial Council, Judge Gale Ghana. In the next quarter, SICJAJ will evaluate LCPS's continued role in supporting programming of judicial ethics and independence. SIJCAJ project staff and experts will take on an increasingly larger role in leading this process, although SIJCAJ may involve LCPS in key areas.

Subtask 2.4 Strengthen Capacity of the Judiciary – Public Info/Communication

Building upon Year 1 programming that focused on the relations between the judiciary and the media, which can influence the public's perception of the judiciary, SIJCAJ introduced in the Year 2 work plan technical assistance that targets the capacity of the SJC and the courts to better educate the public on the judiciary's performance and to better respond to media attacks on the independence of the judiciary. SIJCAJ will continue to promote seminars on legal journalism and also provide training on legal journalism; however, the Project will emphasize capacity building and institutionalization of public information best practices as the preferred means of strengthening the judiciary's capacity to communicate effectively with the media and the public. In Quarter 7, SICJAJ will engage an expert to evaluate the SJC's capacity to provide public information services, which will also include an evaluation of public information strategies for the courts and media guidelines.

Subtask 2.5 Improved Budget Process within Judiciary

The funding of courts is central to the independence of the judiciary and efficient administration of justice. This is a neglected aspect of the judicial reform process in Lebanon. Accordingly, SICJAJ will undertake a thorough assessment of the budget planning and execution procedures and practices and deliver the assessment to justice sector counterparts. The assessment is expected to take place in Quarter 3 and lead to follow-on assistance that targets improved budget practices and transparency at the ministry level and within the courts. During the reporting period, SIJCAJ identified an experienced expert to conduct the assessment.

3. TASK 3 COURT ADMINISTRATION REFORM

Subtask 3.1 Caseload and Backlog Assessment

In Year 1, SIJCAJ produced a caseload and backlog assessment, which identified systemic and procedural issues. SIJCAJ has struggled to develop a policy level body to take ownership of the major court administration policy issues that case processing timelines and backlog present. As a result, SIJCAJ redoubled its efforts to revive the Executive Committee, which will include representatives from the MoJ, the SJC, and the courts to address issues central to court administration. With the arrival of a new International Court Administration Advisor next quarter, SIJCAJ will rededicate resources to policy level action on caseload, backlog reduction, and standardization of court administration procedures.

On a practical level, SIJCAJ continues to work with its pilot court, the Beirut Judgment Executions Court, on improving court administration practices. The pilot court setting is enabling SIJCAJ to better understand administrative constraints that contribute to backlog and slow the processing of cases. For example, the Project met with MoJ officials in February and discussed creating Schedules of Retention for cases. SIJCAJ proposed coordinating with the Lebanese National Archives to clear out many of the case files that are inactive and cluttering the filing rooms. A more integrated organizational reform is necessary to modernize court administration practices, and SIJCAJ will seize upon the physical renovation of the pilot court as the opportunity to introduce modern court administrative practices so that it can then tackle deeper, underlying issues that persist with regard to caseload, case processing timelines, and backlog.

Subtask 3.2 Pilot Court – Court Administration

During the reporting period, SIJCAJ worked closely with A-E expert, Karl Zouein, in preparing architectural plans, technical specifications, and bill of quantities. SIJCAJ was in the process of bid documentation for solicitation of construction works. USAID provided clear guidance and steps for the A-E design and bid documentation phase. SIJCAJ has been closely following the guidance and will conduct procurement in accordance with FAR procedures, specifically, Part 15 and Subpart 36.6. The renovation of the pilot court is a priority matter, and SIJCAJ is working on an expedited basis to finish A-E and bid documentation. SIJCAJ expects to submit all documentation in the next quarter and obtain USAID approval for funding of the construction works, which is estimated to cost approximately \$500,000 (excluding VAT).

SIJCAJ staff worked closely with the Beirut Judgment Executions Court in preparing the court for renovation process, which will result in new administrative practices. At the close of the quarter, SIJCAJ was in the process of soliciting prices for different mobile filing units and these units will be installed in the renovated and expanded Pilot Court. The Project has located three Lebanese companies that can either construct or modify mobile shelving units. These companies will study the architectural drawings of the Pilot Court and provide the Project with cost estimates for shelving units for the Pilot Court. SIJCAJ held discussions with the First President of the Beirut Court, who is responsible for Beirut Executions Court and is supportive of the reforms.

During the reporting period, SIJCAJ engaged local expert Ramzi Raffia Ataya to provide a series of training events to pilot court staff on court services, the use of automated practices and computers, and organizational assessment and practical steps to improve court performance. In line with Mr. Van Duizend visit in December 09, Mr. Raffia Ataya also undertook to conduct surveys of court users and personnel. SIJCAJ will use the results as a basis for change management and institutionalizing court user feedback mechanisms.

Home office and SIJCAJ staff also worked intensively on planning preparing for training to be delivered in the next quarter to pilot court judges and staff, which will be led by Richard Van Duizend, who visited the pilot court in December 08 and will provide follow-on training on change management, case management, and customer service. Mr. Van Duizend will also focus on implementation strategies in a pilot court setting and capturing best practices.

At the close of the quarter, Michel Gauvreau left the SIJCAJ project. NCSC home office was dispatching court administration project support in early April, in order to maintain implementation of project activities. Further, NCSC home office was in the process of identifying a new international court administration expert for deployment no later than June 09.

Subtask 3.3 Automation of Procurement Office

Under the Year 2 work plan, SIJCAJ targeted the procurement office within the MoJ as a key counterpart that can improve the supply chain to the courts and ensure they have better resources. This activity will be revisited upon the arrival of the new International Court Administration Advisor and progress is expected in the next quarter.

4. TASK 4 IMPROVE ACCESS TO JUSTICE

Subtask 4.1 Bar Association Consensus for Legal Aid Procedural Reform

In preparation of the Year 2 work plan, SIJCAJ met with Bar Association leaders to discuss an assessment of the Bar's procedures for appointing counsel in legal aid cases, monitoring the quality of representation, and developing sustainable training for legal aid attorneys, including certification of young lawyers. While such an assessment can be viewed as sensitive, the Bar Association is will to cooperate in this matter. During the reporting period, the SIJCAJ legal advisor met several times with the Presidents of the Bar Association to confirm this activity. The legal advisor gathered data on legal aid representation, which will be used as background information for the assessment. In addition, SIJCAJ was preparing a scope of work and in the process of identifying a qualified expert to conduct the assessment. It is expected that the assessment will take place in the next quarter and that the assessment will result in target follow-on assistance that improves legal aid representation and is sustainable.

Subtask 4.2 Legal Aid Training and Sustainable Training Program

The assessment to be conducted under Subtask 4.1 will also include recommendations for legal aid training and a training program. The institutionalization of training program within the Bar Association will require consensus and be customized according to Bar Association resources. A legal aid handbook that SIJCAJ prepared in coordination with the Bar Associations was approved in February 09 and final printing should occur in the next

quarter. SIJCAJ will distribute the handbook and also incorporate it into future project training. Additionally, in meetings with the Beirut Bar Associations, SIJCAJ secured its support of including legal aid representation information in the information kiosk to be installed in the Beirut Palace of Justice (in coordination with Task 3). Furthermore, SIJCAJ provided the Beirut Bar Association legal aid office with a DVD on the SIJCAJ sponsored legal aid training delivered by US Judge Dana in October 08. The DVD is available to bar association lawyers.

Subtask 4.3 Recruitment of Legal Aid Attorneys

The recruitment of legal aid attorneys is important to the providing on-going legal aid services to indigent clients and defendants. The activities under this subtask are slated to occur in the third and fourth quarters. These activities are designed to strengthen recruitment using professional recognition of and awards for legal aid lawyers, as well as educating law students on legal aid. In both instances, SIJCAJ will involve the Bar Association in planning and implementation with an aim to create a sustainable strategy. In particular, SIJCAJ will work closely with Bar Association leadership and members of the legal aid committee.

5. TASK 5 SUB-GRANTS TO ENHANCE THE RULE OF LAW

Subtask 5.1 Awarding Grants

In February 09, the Proposal Evaluation Committee met and awarded three Lebanese NGOs \$25,000 apiece as part of the Project's Small Grants Program. The NGOs and their activities are: (1) the Kun Hadi Foundation, which will launch an awareness and advocacy campaign to educate citizens about traffic laws and regulations; (2) the Foundation Pere Afif Osseiran, which will strengthen judicial institutions that deal with juvenile delinquents by holding seminars with judges to discuss alternative sentencing and will also work to provide juvenile delinquents with vocational education, in an effort to equip these children with job skills; and (3) the Association des Libanaises Universitaires, which will organize advocacy campaigns to educate women who have been abused of their rights and will also open an office with two part-time attorneys that provide abused women with legal advice and referral for psychological and medical assistance. Immediately after the grants were awarded, the Project commenced providing the three NGOs with technical assistance and advice on how to achieve results in their respective activities. This activity is on-going throughout 2009.

6. PERFORMANCE INDICATORS FOR THIS QUARTER

Progress towards achieving indicators this quarter is set out in the Performance Monitoring Plan. See Appendix 3 (separate attachment).

7. CHANGES IN KEY COUNTERPARTS

Chucri Sader, formerly the Director of the JTI, was appointed as President of the State Council, the highest judicial body within the area of administrative law. President Sadder is a proponent of judicial reform in Lebanon, and SIJCAJ will continue to reach out to him in his new post.

8. DIFFICULTIES ENCOUNTERED

With the departure of the Project's Chief of Party (CoP) and the International Court Administration Advisor in March 09, SIJCAJ adjusted its programming due to this labor shortage. However, the Deputy CoP assumed CoP duties. Additionally, NCSC home office provided intensive project management back-up and was dispatching home office project coordination support into the field in early April. NCSC home office was in the process of identifying qualified individuals, whose placement in the field is expected in the next quarter. With the arrival of new staff, SIJCAJ expects robust implementation for the remainder of Year 2. Because the Year 2 work plan is demanding, particularly the strategic planning and renovation projects, NCSC home office is intending to realign project staff and increase local LTTA posts to ensure that project resources are sufficient to support implementation workload.

SIJCAJ staff dedicated substantial effort in the two previous quarters on renovation of the JTI and the pilot court. SIJCAJ is coordinating with USAID on the procurement of A-E services and construction works. Both construction projects are high priority and they are being expedited. During the next quarter, SIJCAJ expects to obtain USAID approval of architectural plans and specifications and solicit construction works. SIJCAJ has been guided by FAR for the procurement processes. The procurement of construction works rests upon additional USAID funding in the estimated amounts of \$500,000 (excluding VAT) for the pilot court and \$950,000 (excluding VAT) for the JTI facility. The disbursement of these funds will be critical to the expeditious implementation of renovation projects.

SIJCAJ has faced a roadblock with regard to VAT and customs exemption. The lack of a bi-lateral agreement between the US and the GoL is problematic, as SIJCAJ does not have a basis to claim tax exempt status. As an alternative, SIJCAJ has applied for tax exempt status as a registered NGO but authorities in the Lebanese VAT Directorate have thus far denied granting the project tax exempt status. Accordingly, SIJCAJ is subject to paying VAT (10%), and this could result in a substantial amount with respect to the procurements for renovation projects and the purchase of equipment and furniture.

9. ACTIVITIES ANTICIPATED IN NEXT QUARTER

- Commence justice sector strategic planning activity (utilizing team of experts)
- Commence disciplinary process assessment and judicial ethics assistance (utilizing judicial expert)
- Commence court administration training in pilot court (utilizing court administration expert)
- Commence judicial budget assessment (utilizing judicial budget expert)
- Commence legal aid representation assessment with bar association (utilizing legal aid expert)
- Initiate build-out and renovation of the Model Court
- Initiate renovation of Judicial Training Institute
- Intensify court administration reforms in Model Court, including establishment of a change management team consisting of court leaders
- Establish Executive Committee as policy body to address backlog reduction and case processing timeline issues
- Follow-up and provision of technical assistance for small grants

- Print and distribute Citizens' Guide to Legal Aid
- Initiate process for public access information kiosk in Beirut courthouse

Appendix 1. Press Tracking Table

Press Coverage Summary Table 2009

Name of Press Outlet	Type (weekly/daily newspaper, radio, TV)	Date	Title of Article or feature	Comments/ Description
Al Mustaqbal	Daily Newspaper in Arabic	January 24 th , 2009	Colloquium Judicial Ethics Seminar	The Seminar at the Crown Plaza in participation of the Arab Judges opening speech by NCSC Director Shelley Liberto followed by the President of the Supreme Judicial Council Gale Ghanem by saying that the Independence of the judicial ethics to prevent political interference
Al Akhbar	Daily Newspaper in Arabic	January 24 th , 2009	Ghanem: Stop interference in Justice	After the Judicial being affected by the political division that has hit the country over the past four years, a new president has been elected to the High Supreme Judicial council hoping to salvage their rights. The new president called for their independence
Al Nahar Newspaper	Daily Newspaper in Arabic	January 26 th , 2009	Seminar specialized on Judicial Ethics	In the Crown Plaza a Seminar was held on Judicial Ethics by several foreign Judges among them Judge Gregory Mize from Virginia
Al Akhbar	Daily Newspaper in Arabic	January 28 th , 2009	Ayoubi: High Judicial Council Oppressing the right of Association	Judge Ayoubi Oppresses the right of Association after the opening speech of President Ghaleb Ghanem in the colloquium of the Judicial Ethics seminar in the Crown Plaza Hotel Hamra.
Al Nahar	Daily Newspaper in Arabic	February 2 nd , 2009	Judicial Ethics: Rational restrain & committed decision	An Article written by judge John Azzi in respect of his views of Justice and Ethics
Al Safir	Daily Newspaper in Arabic	March 9 th , 2009	First Conference on Arbitration for the Judicial Training Institute	Under the title "arbitration and alternative means", the JTI held their first conference outside their premises, at the Movenpick Hotel on March 7 th , 2009.

Appendix 2. Initial Evaluation, Judge Gregory Mize



**PROJECT TO STRENGTHEN THE INDEPENDENCE OF THE JUDICIARY
AND CITIZEN ACCESS TO JUSTICE IN LEBANON**
A USAID Project Implemented by the National Center for State Courts

Developing A Judicial Code of Ethics for the Lebanese Judiciary

An Initial Evaluation

January 27, 2009

DISCLAIMER

This report was prepared by Judge Gregory E. Mize, judicial ethics and codification expert, participating in the USAID Project to Strengthen the Independence of the Judiciary and Citizen Access to Justice in Lebanon. The author's views expressed in this publication do not necessarily reflect the views of the United States Aid for International Development or the United States Government.

Background

This report carries out assignment #3 (p. 2) of the Scope of Work [“SOW”] for the judicial ethics expert’s visit to Lebanon under the USAID Project to Strengthen the Independence of the Judiciary and Citizen Access to Justice in Lebanon [“SIJCAJ”]. Before arriving at the conclusions and recommendations stated herein, your reporter participated in the following consultations, meetings and examinations.

1. Principal Documents Reviewed.

Principles of Judicial Ethics in Lebanon (January 2005), the Belgrade Report of Judicial Ethics, the Transcript of the Judicial Ethics Roundtable (November 10, 2008), the USAID/Lebanon Rule of Law Assessment (March 2006), the Bangalore Principles of Judicial Conduct (2002), the European Charter on the Statute for Judges (July 1998), the Lebanon Legal & Judicial Sector Assessment (World Bank), the A.B. A. Model Code of Judicial Conduct (2007), the Preliminary Report of the American Bar Association Joint Commission to Evaluate the Model Code of Judicial Conduct (June 2005), and “How Judicial Conduct Commissions Work,” Cynthia Gray, *THE JUSTICE SYSTEM JOURNAL*, Vol. 28, No. 3 (2007).

2. Interviews & Observations Conducted.

At various times before and after actively participating in the Judicial Ethics Colloquium in January 23 & 24, 2009 in Beirut, your reporter interviewed leading members of the judiciary (from Lebanon and the region), the Lebanese executive branch, and Beirut Bar Association. Focused interviews included Judge Ghaleb Ghanem, President of the Lebanon Supreme Judicial Council; His Excellency Joe Takla, Interim Minister of Justice & Minister of State for Presidential Affairs; Judge Choukri Sadr, President of the Council of Legislation; Judge Dr. Mohammad Al-Tarawneh (Jordan); Judge Walid Akoum, President of the Appellate Court of Criminal Felonies (Beirut); Judge John Azzi (Lebanon); and Beirut Bar members: Ramzi Joreige [Bar President], Sonia Ibrahim Atiyah, Majed Fayad, Marie Ghantos, Farh Haddad, and Joe Karam.

In addition, your reporter benefited from the input of several NGOs situated in Beirut by means of a 2-hour roundtable discussion held at the NCSC Beirut office. Present at that time were representatives of the Association pour la Defense des Droits et des Libertes [“ADDL”], the Institute des Droits del’Homme, Amideast, The Lebanese Transparency Association, the Palestinian Human Rights Organization [“PHRO”], the Lebanese Center for Policy Studies [“LCPS”], and the Public Interest Advocacy Centre [“PINACLE”]. Member of Parliament Ghassan Moukheiber also participated in the roundtable. Significantly your reporter also observed morning proceedings in the Appellate Court of Criminal Appeals in Beirut followed by an interview in the chambers of the presiding judge.¹

Challenges & Issues

On the basis of these many rich meetings and observations, these are your reporter’s capsulated statements of the challenges and issues facing the Lebanese government when undertaking to define and enforce judicial ethics.

¹ On another day, your reporter made more brief observations of the appellate Court of Cassation.

- Political & Social Instability Due to Years of Armed Warfare. The years of fighting have depleted many physical and fiscal resources. Armed militias continue to guard the streets, buildings and important persons. Lebanese citizens face daunting security and economic challenges. It is reasonable to infer that the establishment of “judicial ethics,” in this context, is an important but lesser priority.
- Confessionalism. Although current legal documents call for an eventual end to confessional quotas, every interviewee confirmed its ongoing and vigorous influence on judicial policy-making and case decision-making. Unlike the United States where there is a constitutional and cultural separation of church and state, there is merger of civil government and multiple religious sects. As the world-renown religion historian Huston Smith indicated in his classic study “The World’s Religions,” religions generally tend to control minds. (Pp. 92-93) In Lebanon religious traditions, combined with historical political and military alliances, infiltrate public policy-making at all levels, including affairs in the judiciary and courtrooms. Hence, any aspirations to create a judicial code of conduct implicate historical religious orthodoxies. To define a code of conduct for Lebanese judges begs the question, “And from what religion does the judge or his appointer derive?”
- Politically the Judiciary is the Weakest Branch of Government. Judges, lawyers, and NGOs complain that the executive branches of the Lebanon government control the judiciary. The executive branch has the clear upper hand with respect to: the fiscal resources available to the courts, the appointment of new judges, the assignment of incumbent judges and, occasionally, case decision-making (especially in criminal matters). Your reporter received several accounts of executive censorship of judicial speech. Observations of courthouse facilities and operations suggested to your reporter that physical assets of the judicial branch pale in comparison to those of the military, the legislature, the executive branches, and the organized bar. These shortcomings lead to despair and moral weakness in many judges.
- Absence of Clear, Enforceable Judicial Code of Conduct. There are public employee rules of conduct, such as prohibitions against bribes, applicable to judges. The Supreme Judicial Council sends notices of prohibited conduct to judges on an *ad hoc* basis. The Ministry of Justice promulgated “The Judicial Code of Ethics Main Principles” in January 2005. And there is a longstanding Judicial Inspection Unit [“JIU”] within the judiciary designed to investigate complaints of judicial misconduct. Despite these features, persons at high levels of the judicial profession made clear to your reporter that corruption is widespread among Lebanese judges and court employees. Many believe the absence of an enforceable code of judicial ethics enables continued corruption and feeds general mistrust in integrity of the court system. Moreover, the lack of a code and a disciplinary system handicaps judicial training of new judges and quality control of judicial support staff.
- Court Record-Keeping Hampers Enforcement of Judicial Ethics. There is no systematic tape recording or stenographic record made of official court proceedings. Your reporter observed courtroom clerks hurriedly employing rudimentary pen-on-paper methodology to preserve a history of events in criminal court hearings. These practices can hinder the reconstruction of events in instances where judicial misconduct is alleged.

Recommendations

The following recommendations for improvements are divided into two categories: (1) Systemic and (2) Practical. The large picture, systemic suggestions are surely not

attainable during the life of the SIJCAJ. They are made principally to amplify the magnitude of the previously stated challenges and issues surrounding the establishment a Lebanese code of judicial conduct. It is also important to mention these grander scale proposals are mentioned because Lebanese interviewees were the first to posit them.

The practical recommendations are essentially action plans. It is hoped they will be useful toward fashioning upcoming SIJCAJ work plans. Both categories of recommendations are made with deference to the local counterparts of the SIJCAJ who are the ultimate actors in any efforts to establish greater ethical conduct by the Lebanese judiciary.

1. Systemic Suggestions.

- Reconstitute the Judiciary as Co-Equal Branch of Government. The judiciary currently lacks genuine power to make rules of conduct for itself or to establish other self-management structures such an association of judges.
- Increase Public Funding for Court Operations. Many interviewees opined that judges and court support personnel are under-compensated. In addition, the physical attributes of court offices are woefully in need of refurbishment. Until more financial resources are invested in court operations, there will likely be a continuation of poor service to the citizens who seek justice at the courthouse. In addition, the morally weak employees will more likely seek illicit contributions from litigants in order to supplement their meager compensation.
- The Judicial Inspections Unit [“JUI”] Must Be Invigorated with Additional Professional Resources. The JUI has been functionally dormant. If there is going to be an enforceable judicial code of ethics, then the JUI must have additional resources to hire an adequate number of well-trained, professional investigators.
- Creation of a New, Purely Civil Court. Given the complicated and long history of confessionalism in Lebanon, perhaps it is timely for policymakers to consider the creation of a purely civil court system wherein litigants who elect to use the new system would formally waive all expectations of confessional characteristics. In effect, parties who file cases in this new court would elect to have their case litigated without religious considerations. It would be a court established upon the principal of the separation of religion and state.

2. Practical Recommendations

- A Working Group of Local Stakeholders Should Be Created, Sustained and Readied for Action to Draft a Proposed Model Code of Judicial Conduct for Lebanon. A recent meeting of justice ministers from regional Arab countries was held in Beirut. These ministers intend to adopt a charter or common declaration of principles of judicial conduct in Arab countries. While this charter is being considered, a small working group of Lebanese professionals [including NGO representatives and bench/bar leaders] should be assembled to design and disseminate a survey instrument seeking input from all judges, practicing lawyers and respected elders from civil society with respect to what should be included in a code of judicial conduct for Lebanon.

- A Small Committee of Professionals Should be Commissioned to Draft a Precise and Enforceable Judicial Code of Conduct. The committee of experienced wordsmiths should draft a proposed code of conduct that reflects the directives the Arab charter, if any, and the cogent input of the survey described above. The draft code should then be submitted to the appropriate sponsor(s) for adoption by the Parliament. The clear majority of interviewees advocated for the establishment of an enforceable, statute-based judicial ethics system.
- Enlist One or More Respected Champions to Advocate for Adoption of an Enforceable Judicial Ethics System. At the above-noted roundtable discussion among local NGOs, there was consensus that a consortium of highly respected retired judges and other civic elders would be valuable allies in building public and governmental support for an effective judicial ethics system.
- Create Separate Education Programs for Judges, Court Personnel, and Citizens Regarding the Virtues of Judicial Codes of Ethics. Programs explaining effective judicial ethics systems in other countries may encourage court officials and citizens to vigorously support a program in Lebanon.
- Advocate for Resources to Install Electronic Recording of All Court Proceedings. Installation of basic electronic recording equipment in all courtrooms would prevent manipulation of the official record by corrupt court officers as well as improve disciplinary investigations and enforcement.

Conclusion

The Lebanese legal community thirsts for an increasingly fair and impartial judiciary. As His Excellency of the Supreme Judicial Council, Ghaleb Ghanem, indicated at the January 23 colloquium on judicial ethics – judicial honesty reconciles government with its society and builds propriety inside the courtroom. The SIJCAJ can likely help the Lebanese advance toward those goals. Your reporter remains available to serve in these regards.

APPENDIX 3

PERFORMANCE MONITORING PLAN – YEAR 2 USAID-LEBANON SIJCAJ PROJECT 5th QUARTER 2009 UPDATE

TASK 1: DEVELOP THE CAPACITY AND INFRASTRUCTURE OF THE JUDICIAL TRAINING INSTITUTE FOR INITIAL AND CONTINUING TRAINING

Expected Result	Indicator	Benchmark Measurement	Benchmark Data Source	Year of Baseline/ Baseline	Target Year 2	Actual Qr. 5 Jan-Mar 2009	Comments
1. Judges are well-trained and qualified	Number of incoming judges trained with Project assistance pre-appointment.	Judicial trainees attending classes at Judicial Training Institute (JTI) renovated by Project, or attending Project supported courses elsewhere	MOJ	2008/0	20	0	High Judicial Council completed exams for judge trainees and 15 were selected. Expect JTI course for 15 judge trainees to commence in early to mid June 2009. Project to provide furniture, computer, etc. to interim JTI classroom in MoJ pending completion of JTI construction.
	Number of sitting judges trained with Project assistance.	Sitting judges trained or participating in study tours	MOJ/ NCSC	2008/5	15	60	CJE has not been formalized by GoL. However, with JTI, Project held a seminar in March on arbitration for 60 sitting judges. Two to three additional seminars planned in 2009.
		Number of computer stations available for judicial training	MOJ, NCSC	2008/0	40	0	computer stations will be available when JTI facility when JTI construction is complete. Interim JTI classroom will have one computer station for judge trainees.
		Number of online legal resource sites operated by Judicial Training Institute	NCSC	2008/0	1	1	JTI website complete. http://www.jtilebanon.com

	Number of judicial trainee candidates examined for entry into judicial profession with modern techniques	List of tested candidates	MOJ, NCSC	2008/0	20	500 - 600	Project sponsored psychological selection tool was used by the HJC during the second phase of the exams for the next JTI class. Five to six hundred applicants were interviewed & tested using this psychological selection tool by the HJC. HJC was also trained by Project consultant in how to effectively use this psychological selection tool.
	Percentage of Judge Trainees responding that curriculum is satisfactory in meeting their training needs	Survey	NCSC/MOJ	2008/0	80%	0	Judge trainees will commence their training in June 2009.
	Number of new of upgraded IT stations for e-library	Judicial Training Institute e-Library	NCSC/MOJ	2008/0	30	0	IT stations in JTI facility will be in place after completion of JTI facility.
	Number of judicial training management information systems created or supported by Project	Judicial Training Institute automated management system	NCSC/MOJ	2008/0	1	1	Portions of automated management system, including JTI library resources, email and information notices, are within the JTI website and that is complete. Upon completion of JTI facility, all JTI computers will be linked to a server and further management system capability will be available.

TASK 2: ENHANCE JUDICIAL INDEPENDENCE

Expected Result	Indicator	Benchmark Measurement	Benchmark Data Source	Year of Baseline/ Baseline	Target Year 2	Actual Qr. 5 Jan-Mar 2009	Comments
1. Improved judicial independence	Number of programs to enhance public understanding and media coverage of judicial independence and accountability	Colloquial, seminars, roundtables	NCSC	2008/0	1	1	Regional colloquium on judicial independence in partnership with Lebanon Center for Policy Studies
	Number of supported programs to assist the MOJ in creating and adopting a long term strategic plan for justice and justice reform	Assessment with recommendations, conferences, working groups, seminars, proposed plan	NCSC	2008/0	20	0	Quarters 6-7 activity
	Number of programs to promote Supreme Judicial Council(SJC) control over management of court budget	Assessment with recommendations for adjustment to rules and regulations for budget control	SCJ, MOJ, JIU, pilot court	2008/0	1	0	Quarter 6 activity
	Number of programs supported by Project to promote judiciary's control over membership of the Supreme Judicial Council (SJC)	Assessment with recommendations for change in law to allow judiciary determination of composition of JSC over competing authority of the Council of Ministers	NCSC	2008/0	1	0	Quarter 6-7 activity
2. Judicial code of professional conduct honored and enforced	Number of programs by Project to reform judicial code of conduct and procedures for enforcement	Colloquia, roundtable discussions	NCSC	2008/1	5	0	Quarter 6 activity
	Number of programs supported by Project to reform procedures for enforcement of judicial discipline	Assessment with recommendations	NCSC	2008/0	1	0	Quarter 6 activity (assessment)
3. Increased transparency of judicial proceedings and avoidance of personal attacks against judiciary in media	Number of media agencies and HGO's supported to enhance the competency of legal journalists	Seminars, training sessions, training handbooks, programs in legal journalism at journalism trade schools and universities	NCSC	2008/2	6	0	Quarter 6 activity

Expected Result	Indicator	Benchmark Measurement	Benchmark Data Source	Year of Baseline/ Baseline	Target Year 2	Actual Qr. 5 Jan-Mar 2009	Comments
	Number of programs supporting the establishment of SJC/MoJ media relations office	Assessment with recommendations working groups	MOJ	2008/2	5	0	Quarter 7 activity

TASK 3: SUPPORT EFFORTS BY THE MINISTRY OF JUSTICE TO IMPROVE COURT ADMINISTRATION

Expected Result	Indicator	Benchmark Measurement	Data Source	Year of Baseline/ Baseline	Target Year 2	Actual Qr. 5 Jan-Mar 2009	Comments
1. Improved court administration	Number of courts with improved infrastructure adequate to serve modern court administration	Completion of Model Court and information kiosks	NCSC, MOJ,	2008/0	2	0	Dependent on completion of Model Court build-out; procurement process for filing systems and mobile shelving begun Model Court reforms in process
	Number of modern manual filing system designed, implemented or supported	Installation of modernized filing systems in Model Court and Solicitor General's Office	NCSC/MOJ	2008/0	2	0	In process
	Number of court personnel trained in modern administrative techniques	Participation in seminars, working groups and study tours	NCSC/MOJ	2008/10	120	0	Quarter 6 activity
	Number of court management information systems (MIS) created or supported by Project	Installation of automation assisted case management systems in Judgment Executions Court (Model Court) and Solicitor General's office	NCSC/MOJ	2008/0	2	0	Subject to manual records management filing system installation
	Number of information educational and awareness events regarding court administration improvements completed by the Project	Seminars, training sessions, workshops	NCSC, MOJ	2008/0	8	0	Quarter 6 activity

Expected Result	Indicator	Benchmark Measurement	Data Source	Year of Baseline/ Baseline	Target Year 2	Actual Qr. 5 Jan-Mar 2009	Comments
	Number of modernized administrative processes and procedures created, implemented or supported by the Project	Case management systems of Judgment Executions Court and Solicitor General's office.	NCSC/MOJ	2008/0	2	0	In process

TASK 4: IMPROVE ACCESS TO JUSTICE

Expected Result	Indicator	Benchmark Measurement	Benchmark Data Source	Year of Baseline/ Baseline	Target Year 2	Actual Qr. 5 Jan-Mar 2009	Comments
1. Indigent citizens receive quality legal services	Number of legal aid attorneys trained by Project	Training sessions for Bar Associations	NCSC/Beirut and Tripoli Bar Associations	2008/200	250	0	In process
	Number of legal aid administrative systems analyzed and recommended for improvement	Assessments	NCSC/Beirut and Tripoli Bas Associations	2008/0	2	0	Quarter 6 activity
	Number of publicized events in support of legal aid		NCSC/Beirut and Tripoli Bars; MOJ	2008/1	2	0	Quarter 6 activity
2. Public is informed of justice services	Number of publications created and distributed by Project re: justice services	Citizens' handbook, pamphlets	NCSC	2008/0	2	1	Legal aid handbook is being finalized
	Number of informative events targeted for public awareness of justice	High profile events; Law Day, e.g.	NCSC	2008/0	2	0	Quarter 7-8 activities

TASK 5: GRANTS TO ENHANCE PUBLIC ENGAGEMENT, SUPPORT REFORM EFFORTS, AND FOSTER A CULTURE OF RESPECT FOR THE RULE OF LAW

Expected Result	Indicator	Benchmark Measurement	Benchmark Data Source	Year of Baseline/ Baseline	Target Year 2	Actual Qr. 5 Jan-Mar 2009	Comments
1. Increased public support for reforms and respect for the rule of law	Grants awarded that build public awareness and support for reform	Number of participants in workshops	Workshop attendance list	2008/0	35	15	Workshop on grants delivered to grantees on grant management
		Number of grant applications submitted and awarded	Grant applications and committee awards	2008/0	3	3	3 grants awarded in Feb '09 and grantees are carrying out their activities.