

ATTACHMENT 3



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**STRENGTHENING THE INDEPENDENCE OF THE JUDICIARY AND
CITIZEN ACCESS TO JUSTICE IN LEBANON (SIJCAJ Project)**

A USAID Project Implemented by National Center for State Courts

LEGAL AID IN LEBANON

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DISCLAIMER

The author's views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

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EXECUTIVE SUMMARY

The purpose of the Legal Aid Representation and Training Expert consultancy was to perform a thorough assessment of the legal aid programs administered in Lebanon by the Bar Associations of Beirut and Tripoli, to make appropriate findings, and to present recommendations for improvements that would lead to a quality sustainable legal aid program for the indigent in Lebanon.

In performing the assessment, the consultant reviewed relevant statutory and documentary sources, and interviewed 29 persons. Following the preparation of tentative recommendations, the consultant presented them for discussion and comment at separate workshops in Beirut and Tripoli, which were attended by Bar Association members selected by the Presidents of the two Associations. Following the workshops, the consultant prepared the findings and recommendations presented in this Report.

Concisely stated, the consultant has found that although the Bar Associations have demonstrated a commitment to the provision of legal aid to the indigent, and administer their legal aid programs in compliance with statutory mandates, those programs: (1) lack adequate orientation, training, case monitoring, and supervision protocols to ensure the provision of quality representation to legal aid clients; (2) must compete for limited resources and governance attention with other important and beneficial programs administered by the Associations; (3) are limited by inadequate and non-sustainable funding sources; and (4) suffer from a lack of sufficient administrative support and modern information technology.

Based upon the findings, the consultant has made several detailed recommendations to achieve sustainable quality legal aid programs in Lebanon: (1) the preparation of thorough needs assessments to ascertain the scope of the potential demand for legal aid and the types of cases or sub-populations with the greatest need; (2) the creation of committees of experienced attorneys to monitor legal aid cases and provide supervision and mentoring of legal aid lawyers; (3) the recruitment of lawyers experienced in criminal and civil cases to participate in the legal aid programs; (4) the creation of a pilot project to support the evolution to more stable funding through the government; (5) the development of a legal aid orientation and training curriculum and certificate; (6) the creation of pilot projects in collaboration with NGO's; (7) the inclusion of legal aid courses and information in judicial training programs; and (8) the provision of adequate administrative support and information technology to the legal aid programs. The recommendations are not presented in a priority order. However, because the results of the recommended needs assessments will inform the implementation of several other recommendations, they should be viewed as a high priority, along with the recommendations that go to the monitoring of legal aid cases and the supervision of legal aid lawyers.

I. INTRODUCTION AND BACKGROUND

(A). USAID Task Order and SIJCAJ Project Work Plans

The three-year SIJCAJ Project consists of five programmatic tasks, including Task 4 – Improve Access to Justice. The USAID Task Order for Task 4 envisions the following activities: technical assistance to the Bar Associations of Beirut and Tripoli to increase their capacity to provide quality of legal aid to the poor; performance of an assessment of the legal aid programs of the Bar Associations, followed by roundtable discussions; assistance to the Bar Associations to improve oversight mechanisms to ensure high quality legal aid representation; assistance to the Bar Associations to establish sustainable training programs for lawyers and trainee lawyers accepting legal aid cases; and support for Bar Association efforts to increase the number of lawyers participating in the legal aid programs. The complete text of the Task Order for Task 4 is attached as Appendix A.

In the execution of its Year 1 Work Plan, the SIJCAJ Project undertook a cursory analysis of statistics pertaining to the delivery of legal aid to the indigent, and examined the procedures for assigning and monitoring legal aid attorneys through the Beirut and Tripoli Bar Associations. It conducted interviews with several legal aid lawyers, and with Bar Association administrators, presidents, and heads of commissions. The Project also conducted a two-day training symposium on legal aid in Lebanon, during which primary counterparts and stakeholders described issues confronting the delivery of legal aid in Lebanon.

The Year 2 Work Plan for the SIJCAJ Project contains the following three activities, with several subtasks, for Task 4: Following an assessment by a legal aid technical advisor, workshops to discuss recommendations for possible changes, and a study tour to the United States, the first activity involves achieving consensus within each Bar Association for procedural upgrades in its legal aid program to strengthen its capacity to offer legal aid representation. Following this assessment, the second activity involves assistance to the Bar Associations in the establishment of sustainable training programs for lawyers and trainee lawyers representing legal aid clients, the provision by the Project of yearly training seminars in Beirut and Tripoli similar to the seminar delivered in Beirut in 2008, the organization in Beirut and Tripoli of Law Day events to assist the Bar Associations in providing tours of the courthouses and organizing discussion groups for the public, and the production of public information brochures to be distributed from kiosks placed in the Beirut and Tripoli courthouses. The third activity involves the recruitment of lawyers to participate in the legal aid programs of the Bar Associations by supporting the Associations in the presentation of awards ceremonies to publicly recognize the service of those lawyers participating in the legal aid programs, and by inviting interested law faculty students to participate in project events and training sessions relevant to legal aid. The complete text of the Year 2 Work Plan for Task 4 is attached as Appendix B.

(B). Legal Aid Representation and Training Expert Consultancy

As envisioned in the activities of the Year 2 Work Plan, the Legal Aid Representation and Training Expert has been engaged to undertake an assessment of the program in Lebanon that provides legal assistance to indigent persons in criminal and civil cases, with the goal and objective to improve access to justice by making specific recommendations for program improvements. The Scope of Work for the consultancy sets forth the following tasks: (1) to review and analyze the laws, rules, and regulations governing the management of the legal aid system; (2) to review and analyze the policies and procedures of the Bar Associations for recruiting lawyers and assigning them to individual cases; (3) to review and analyze the policies and procedures of the Bar Associations for monitoring the lawyers' performance; (4) to review and analyze training given over the past three years to legal aid lawyers; (5) to interview relevant parties engaged in the provision of legal aid; (6) to interview judges, lawyers, and prosecutors, assessing what works, what does not work, and what should be changed; (7) to conduct a workshop with Bar Association representatives and other relevant parties to review draft findings and recommendations; and (8) to prepare a report that discusses and analyzes the findings of the assessment, provides recommendations to upgrade the approach and procedures of the Bar Associations, provides recommendations for options for the introduction of a sustainable training program for legal aid lawyers, and discusses the prioritization of reforms based upon bar association consensus and commitment. The Scope of Work is attached as Appendix C.

Central to the realization of the goal of improving access to justice is the availability of quality legal assistance. Access to justice should not depend upon financial wherewithal. Therefore, the provision of quality legal assistance to the poor is a necessary component of all mature justice systems. To its credit, Lebanon recognizes this principle, and the law mandates the availability of legal assistance to indigent persons in both criminal and civil cases. Notwithstanding this mandate, the programs in place for providing legal aid lawyers are relatively undeveloped, by comparison to modern standards, and warrant improvement. The Scope of Work for the Legal Aid Representation and Training Expert provides for the thorough assessment and analysis necessary for realizing meaningful and sustainable improvements in the delivery of legal assistance to the indigent in Lebanon.

(C). Methodology

In conducting the assessment in preparation for this Report, the consultant reviewed and analyzed applicable laws, regulations, and other written source materials, reviewed relevant historical source materials, and conducted interviews with 29 individuals, including the Minister of Justice, the President of the High Judicial Council, the Presidents of the Beirut and Tripoli Bar Associations, the President of the Beirut Bar Association Legal Aid Commission, judges, lawyers, administrators, heads of NGO's, and the SIJCAJ Project's Justice Sector Consultant and Legal Advisor, who is also a lawyer and member of the Beirut Bar Association's Legal Aid Commission and Commission to Oversee Lawyer Training. A list of the materials reviewed is attached as Appendix D. A list of the interviews conducted is attached as Appendix E. Upon the conclusion of the interviews and document review, the consultant prepared tentative recommendations, and conducted separate workshops in

Beirut and Tripoli with Bar Association members to solicit input and comment on the tentative recommendations, as well as other ideas for program improvements. In Beirut, 14 lawyers participated in a two-hour workshop. A list of the participating lawyers is attached as Appendix F. In Tripoli, 10 lawyers participated in a two-hour workshop. A list of the participating lawyers is attached as Appendix G. The comments and input provided at the workshops were very helpful to the consultant in the preparation of the final recommendations contained in this Report.

II. ASSESSMENT

(A). Introduction

This section of the Report is organized into the following subsections: Demographics, Prison Population, and Law Faculties; Statutory Background; View from the Ground – Beirut; View from the Ground – Tripoli; and Role of NGO's.

Much of the information that follows, including statistics, was obtained during interviews with Bar Association representatives and others. Efforts were made to obtain court- and Bar Association-generated data to independently verify those statistics. Those efforts were, in the main, unsuccessful because data bases and statistical reports containing the information sought are not maintained and/or not available in useable form from those sources. Accordingly, the consultant has relied on the statistics provided during the interviews, and has taken the absence of useable data bases into account in the formulation of his recommendations. Moreover, information provided by various persons on the same subject was sometimes conflicting, although those conflicts were not material to the findings and recommendations contained in this Report. Therefore, they have been resolved by the consultant without being noted in the summary that follows.

(B). Demographics, Prison Population, and Law Faculties

(1). Demographics

Lebanon is a geographically small, strategically situated country with a population of approximately 4.1 million persons, presenting a 50% - 50% gender balance. According to relatively recent statistics, 7.97% of the population is considered to be in extreme poverty and another 20.59% is considered to be in poverty. In addition, very recent figures indicate that there are approximately 422,200 refugees living in camps in Lebanon, 90% of which are Palestinian. A reasonable assumption can be made that the refugee population is living in extreme poverty.

(2). Prison Population

The prisons in Lebanon are operated by the Ministry of Interior, and house both persons convicted of crimes and persons in pre-trial detention, although the two populations are segregated. There are 21 prisons located throughout the country, 17 for men and four for women. Roumieh Prison in Mt. Lebanon is the largest prison, housing approximately 5,500 men, which represents approximately 65% of the entire prison population. Qubbah Prison in Tripoli houses approximately 600 men. There are four prisons for women. According to Dar Al Amal, and NGO providing services to women in prison, in 2008, Baabda Prison in Mt. Lebanon housed 161 women, 49 convicted of crimes

and 112 awaiting trial, and Tripoli Prison housed 254 women, 131 convicted of crimes and 123 awaiting trial. Similar statistics for the other prisons were not available from the Ministry of Interior. Nevertheless, these statistics support the conclusion that there are hundreds of persons held in prison in pre-trial detention. Others convicted of crimes may have appeals pending. It is reasonable to assume that a very high percentage of these prisoners cannot afford to retain private counsel, and are eligible for legal aid.

(3). Law Faculties

There are 10 law faculties in Lebanon. The largest law faculty is associated with Lebanese University in Beirut. The University also supports law faculties in five other districts, including North Lebanon, with a campus in Tripoli. Additional law faculties are found at the following private universities: Beirut Arab University, La Sagesse University (Beirut), Saint-Joseph University (Beirut), and Universite Saint-Esprit de Kaslik (Mt. Lebanon). Tuition at the Lebanese University is very low; therefore, there are many students studying law.

(C). Statutory Background

The right to counsel in criminal cases is guaranteed under the Constitution of Lebanon. The Preamble to the Constitution, in paragraph b, states in pertinent part that “Lebanon is also a founding and active member of the United Nations Organization and abides by its covenants and by the Universal Declaration of Human Rights.” Article 2 of the Code of Civil Procedures is interpreted to provide that international treaties, covenants, and conventions ratified by Lebanon are binding and applicable in Lebanon as part of the hierarchy of the law. Lebanon has ratified the International Convention on Civil and Political Rights (1976). Article 14 of that Convention provides, in pertinent part, that an accused has the right to be present and defend in person, or through counsel of his or her choice, to be advised of these rights, and to be afforded counsel without cost if indigent.

Legal aid to indigent persons in criminal and civil cases is also prescribed by statute in Lebanon. With respect to criminal cases, Article 78 of the Code of Criminal Procedures provides that if a defendant appearing before the investigating judge is unrepresented, the judge either designates a lawyer or refers designation to the president of the competent bar association.

With respect to civil cases, Chapter 7 of the Code of Civil Procedures provides that if one of the parties, who is of Lebanese nationality or a foreigner usually residing in Lebanon where his or her country would grant a reciprocal right to a Lebanese national, cannot pay the charges and fees of a trial, the party may apply for legal aid in order to sue or defend in the first instance or on appeal (articles 425 – 427). The application is submitted in the form of a petition, exempt from fees, in three copies, and is deposited at the registry of the court; the clerk sends one copy to the opposing party, who may respond in writing within five days (article 428). The applying party must attach to the petition a certificate of direct taxes paid by the party issued by the Ministry of Finance and a certificate from any local authority confirming the party’s neediness (article 429). Regardless of the financial condition of the party, legal aid will be denied by the court if it is clear that the claim or defense has no merit (article 430). The court summons the parties and holds a hearing, regardless of their presence, and enters a decision, which is provided to the parties and not subject to appeal (articles 431 and 432). A decision granting the petition is provided to the

president of the competent bar association, who appoints a lawyer to represent the party (article 433). The lawyer may not receive any remuneration from the client, but the court may order the opposing party to pay the legal fees if unsuccessful and not also receiving legal aid (article 434). The party receiving legal aid may proceed without the payment of registry fees or other necessary expenses, which are paid by the treasury (article 435). If the circumstances under which legal aid was granted change or prove to be invalid, the court may annul its decision with retroactive effect on its own or upon the demand of the General Prosecution or Ministry of Finance (article 436). Legal aid ceases without retroactive effect upon the death of the party, subject to a request by the successor (article 437). If the party wins the case, the opposing party must pay the charges, including the advanced charges paid for investigative procedures (article 438). Legal aid continues for the execution of the judgment or for defense in the case where an appeal is taken against the decision (article 439). If the party loses the case, there will be no assessment of attorney fees or repayment of charges unless the party's good financial situation is proved later (article 440). In accordance with the foregoing provisions, the head of the execution department may grant legal aid for the execution of a judgment (article 441).

For government organization and judicial branch purposes, the Country of Lebanon is organized into six governorates: Beirut (unified district), Mt. Lebanon (six districts with the capital at Baabda), North Lebanon (seven districts with the capital at Tripoli), Beqaa (five districts with the capital at Baalbec), South Lebanon (three districts with the capital at Sidon), and Nabatiyeh (four districts with the capital at Nabatiyeh). The districts are further divided into municipalities.

The legal profession in Lebanon is governed by the Law Organizing the Profession of Lawyer. Two bar associations, one in Beirut that covers all the districts in Lebanon, except the district of North Lebanon, and one in Tripoli that covers the district of North Lebanon, are created, and the law provides that no lawyer may practice unless the lawyer is registered in one or the other, but not in both, of the associations (article 4). An application by a lawyer to be added to the roll of either trainee lawyers or practicing lawyers is submitted to the council of the competent association, which reviews and makes a decision on the application, with recourse by the applicant to the Court of Appeal (articles 7 – 10, 14). The council maintains a roll of practicing and a roll of trainee lawyers in accordance with the council's rules and procedures (article 30).

Before a lawyer can be added to the roll of practicing lawyers, the lawyer must undergo a training period of three years as a trainee lawyer in the office of a lawyer practicing before the Court of Appeal (article 11). A trainee lawyer must include with the application the trainee lawyer's identification card, conviction record, and a formal acceptance by the practicing lawyer with whom the trainee lawyer will train.

A trainee lawyer may appear in the name of the practicing lawyer before courts of first instance, committees and councils, Courts of Appeal on behalf of the accused on minor offenses, and criminal courts on behalf of the accused (article 24). The council organizes conferences for trainee lawyers, and a trainee lawyer who has not attended two thirds of the conferences may have the training period extended by a decision of the bar association council (article 26).

Lawyers may plead on behalf of a client only pursuant to a power of attorney executed by the client or an *ex officio* appointment by the president of the bar association to

provide legal aid or to represent an unrepresented accused in criminal or juvenile court upon request of the court (articles 65 and 66). By use of a bar association stamp to be affixed to the power of attorney, one quarter of the share of the fee allocated to the notaries on powers of attorney is paid into the treasury of the bar association.

The law specifically allows for the creation of law firms, which are referred to as civil professional companies (article 83).

A lawyer is prohibited from seeking to obtain clients through advertising, brokers, intermediaries, or other means (article 85).

The disciplinary process and sanctions set forth in law apply to trainee, as well as practicing lawyers (article 99).

Not expressly stated in the law, but a reality in practice, the bar associations require that law faculty graduates sit for an examination prepared by the competent bar association, and achieve a certain score as a precondition to submitting an application for admission as a trainee lawyer.

A review of the text of these laws supports the following conclusions:

- A suspect or accused in a criminal case is entitled to the appointment of a legal aid lawyer, regardless of financial status
- A party in a civil case is entitled to the appointment of a legal aid lawyer upon a demonstration of poverty, although no specific eligibility criteria are set forth in the statute
- The appointment of a lawyer in a criminal case can be achieved by the direct appointment by the presiding judge of a lawyer designated by the judge for appointment, or by a request to the competent bar association
- The appointment of a lawyer in a civil case is achieved by a request from the presiding judge to the competent bar association
- The legal profession is regulated by the Beirut and Tripoli Bar Associations, and not by the Ministry of Justice or High Judicial Council
- Admission to the bar as a practicing lawyer is contingent upon the completion of a three-year internship with an admitted lawyer
- During the internship, a trainee lawyer can appear in criminal and juvenile cases, and civil cases before the first instance courts, and the appearance is in the name of the admitted lawyer with whom the trainee lawyer is interning
- Mentoring and supervision of the trainee lawyer is in all cases, including legal aid cases, left to the admitted lawyer
- The membership of the Beirut and Tripoli Bar Associations is composed of both fully- admitted lawyers and trainee lawyers

(D). View from the Ground – Beirut

(I). Introduction

In the five governorates within the statutory jurisdiction of the Beirut Bar Association, legal aid to indigent persons is, in the main, systematically delivered through the Bar Association Legal Aid Commission, and to a far lesser degree, through special projects

operated by NGO's. The role of NGO's in the delivery of legal assistance to the indigent is reviewed in a separate subsection of this Report. In addition, law firms and individual lawyers provide assistance to poor persons, non-profit corporations, and NGO's on an ad hoc *pro bono publico* basis.

(2). Beirut Bar Association

As noted in the preceding section discussing the Law Organizing the Profession of Lawyer, the two bar associations are integrated, *i.e.*, the legal authority to practice law is dependent upon membership in one or the other, but not both, of the bar associations.

The term of the president of the Beirut Bar Association is two years, and cannot be renewed until the conclusion of an intervening term. As a matter of tradition, a member serves only one term as president. The term of the 12 members of the Council (board of directors), which includes the president, is three years, renewable once, and the terms of members are staggered with one third of the members being elected at each General Assembly, which is held every two years. The Association employs an Administrative Director and a staff of employees in Beirut. Information technology for the Association is handled through a contract with a private vendor; the hardware and software, although adequate for the purposes to which they are put, are outdated. Any data maintained by the judiciary is not accessible to the Association through an electronic link.

The present membership is comprised of approximately 7,000 lawyers, and 1,400 trainee lawyers. There are approximately 2,300 women lawyer members and 500 women trainee lawyer members. Each year, approximately 500 trainee lawyers are admitted to the Association; concomitantly, a like number of trainees, allowing for an approximate 20% attrition rate, receive full membership status upon completion of their three-year internship. Lawyers are organized into approximately 1,500 single-lawyer or multi-lawyer offices or law firms, approximately 75% of which accept trainee lawyers. Typically, trainee lawyers are not paid during their three-year internship. Many of these law firms are organized as civil professional companies under the Law Organizing the Profession of Lawyer. Of firms with more than one lawyer, the approximate breakdown is as follows: following a consolidation of three law firms, there is now a law firm with approximately 80 lawyers, constituting the largest firm in Lebanon; there are between five and 10 law firms with 30 to 50 lawyers; more common are law firms of five to 10 and 10 to 15 lawyers. The larger law firms are competitive, seeking International Organization for Standardization certification for example. The systematic provision of pro bono services by lawyers and law firms is not a tradition in Lebanon, although free legal assistance is being provided by some firms, typically in association with NGO's. In any case, the number of lawyers and trainee lawyers available to provide legal aid is quite large.

The Beirut Bar Association is well organized, politically active, and prosperous. Through member contributions, it has constructed a well-appointed building for the Association with offices for the members of the Council, conference rooms, and a modern law library. It maintains a website, and its members use computers. From time to time, the Association holds recognition ceremonies; for example, every two or three years, the Association sponsors a dinner to present an award to members of 50 or more years. In addition to membership dues, which are used to pay health insurance, cover operating expenses, and provide for retirement benefits for members, the Association receives revenue from a

variety of fees and stamps: the notary public stamp that is required to be affixed to powers of attorney, contracts, and other legal documents; a bar association stamp in the amount of approximately 60 cents that is required on all papers filed in court; and a fee of approximately \$27 for each power of attorney executed by a client. From the notary stamp, for every 1000 LL (Lebanese Pound), one LL goes directly, with an accounting to the government, to the Association to support its activities. During the 1970's and '80's, and up until 1992, the budget for the Ministry of Justice contained a modest appropriation in the neighborhood of thousands of dollars per year to support the activities of the Beirut Bar Association.

The Association is organized into commissions, or standing committees, including the Legal Aid Commission, the Commission on Prisons, and the Commission to Oversee Lawyer Training. The Association has the organizational potential to make the delivery of legal aid a high priority for the Association.

As will be seen in the next subsection, the Beirut Bar Association has a long history of supporting legal services for the indigent in Lebanon. At its General Assembly meeting in November of this year, the members will elect a new president. As part of this assessment, the consultant conducted interviews with the three candidates for the presidency, and they all expressed support for legal aid.

(3). Legal Aid Commission

The Legal Aid Commission of the Beirut Bar Association has 25 lawyer members, is headed by a president, is served by an administrator employed by the Association, and maintains an office in the Palace of Justice. The administrator performs services for the Association in addition to those performed for the Commission. The office space is donated by the Ministry of Justice to the Association and is shared with another commission. Participation of the Commission president and members is on a volunteer basis.

The Legal Aid Commission has an interesting and compelling history, one that demonstrates the long-standing commitment of the Beirut Bar Association to the delivery of legal aid. The following information was provided during an interview with a former President of the Commission. In 1991, the Association decided to institutionalize the delivery of legal aid through the establishment of the Legal Aid Commission. This decision was taken in response to a need to find representation for approximately 300 accused awaiting trial in prison, and in exchange for an agreement with the military court that judges would no longer appoint officers from the courtroom, many of whom were not lawyers. The military court has jurisdiction over persons charged with collaborating with the enemy and terrorism. Prior to the establishment of the Commission, legal aid had been provided through an ad hoc system based on direct requests from judges to the President of the Association. In 2000, legal aid lawyers represented approximately 2,700 persons accused of collaboration with the enemy following the withdrawal of Israel. In 2001, legal aid lawyers represented many persons arrested for demonstrating against the presence of Syrian secret service agents in the country. During this period, legal aid lawyers were also active in juvenile and civil cases. The Commission also maintained a committee of experienced lawyers, who provided follow up on each case and advice and assistance to trainee lawyers handling legal aid cases. This committee does not exist at present.

Except for the donation of office space in the Palace of Justice and the work of certain NGO's, the delivery of legal aid is presently funded exclusively from Bar Association revenues. Presently, the Association authorizes the payment to lawyers and trainee lawyers of the sum of \$100 per legal aid case, regardless of the complexity or duration of the case.

This fee is barely sufficient to cover the cost of photocopying the court file and transportation. The Commission maintains a list of lawyers and trainee lawyers willing to accept appointment in legal aid cases. That list presently contains the names of approximately 300 lawyers and trainee lawyers; one half to two thirds are trainee lawyers. Once every two to three years, the Commission posts a notice in the various courts soliciting lawyers and trainee lawyers to participate. Those who wish to register must come to the Commission office in Beirut, and are afforded the opportunity to designate areas of the law of interest. Presumably, because there is a full vetting process as part of the application for admission to the Bar Association, because lawyer discipline is handled by another commission of the Association, and because the statute requires that all trainee lawyers be supervised by a fully-admitted lawyer during the three-year internship, the Legal Aid Commission does not conduct any vetting or review of lawyers and trainee lawyers that volunteer to be added to the list. Presumably, for the same reason, the Commission engages in no systematic supervision or oversight of the lawyers and trainee lawyers appointed in specific cases. Anecdotal information suggests that some trainee lawyers register without the knowledge of the lawyers supervising their internships, thus defeating the concept of on-going case oversight by those lawyers. Sometimes, the trainee lawyers who are appointed lack motivation, not to mention experience and legal skills. The Commission provides no orientation, training, logistical, or on-going administrative support to the lawyers and trainee lawyers. The \$100 fee is paid upon the conclusion of one year following appointment. Upon the completion of a case, a Report on Case Proceedings is submitted to the Commission by the appointed lawyer. Included in the Report are the appointed lawyer's name, the date of appointment, the client's name and nationality, the court and case number, the case type, the number of hearings attended, a summary of the case proceedings, the date of judgment (with a summary of the court decision attached), and a place for notes by the President of the Commission. Reports are received in a majority of cases and are considered confidential. Information from the Reports is not compiled for any purpose. The Commission maintains no data on case outcomes, and seeks no client evaluation feedback. Likewise, the data maintained by the Commission is not organized in a way to analyze the performance of individual lawyers and trainee lawyers, to measure the overall success of the program, to quantify cases by case types, or to permit an assessment of needs. The only report regularly prepared by the administrator is a six-month report that is submitted to the Commission. That report simply lists, by lawyer and case number, each case that is opened by the Commission during the period pursuant to the appointment of a legal aid lawyer. One inference that can be drawn from the paucity of reports and data is that the Commission lacks necessary administrative and technical support.

As discussed in the previous section, aside from the direct appointment of lawyers in criminal cases, the extent of which is unknown and undeterminable due to the absence of available data, appointments in legal aid cases are made through the Commission by the President of the Association, upon the receipt from a court of a request for appointment in a particular case. Given the requirement of proof of indigent status in civil cases, the process for demanding and receiving a legal aid lawyer is more complex in civil, than in criminal cases.

The court fees and expenses involved in civil litigation, which are in part based upon the amount claimed, are quite high, and discourage poor people from participating in civil cases. The only way to be absolved from the payment of those fees and expenses is to demand the appointment of a legal aid lawyer. Furthermore, it is considered necessary for a litigant to be represented in a civil case, and judges often encourage unrepresented litigants to demand the appointment of a legal aid lawyer. With respect to civil cases, the President of the High Judicial Council, in consultation with the Minister of Justice, has designated one

first instance court in each district to resolve demands for legal aid in civil cases. A demand is made on a form provided by the court. If a demand is made before a judge sitting alone, the judge transfers the demand to the designated three-judge first instance court. The three-judge court sends a formal request to the Ministry of Finance in Beirut for information as to whether the claimant is registered and paying taxes. The Ministry responds with a letter to the court and, upon receipt, the court makes a decision on the demand. If the letter states that the claimant owns real property, then the court should inquiry of the claimant whether he or she is earning income from the property before making a decision. The court endeavors to make a decision within four to six weeks, but there are often lengthy delays in a case resulting from the inability of the Ministry of Finance to timely respond to the request. Accordingly, there is some reported abuse of the system by defendants who demand legal aid simply to delay the progress of a case. When a claimant receives a decision granting legal aid, the claimant takes it to the Legal Aid Commission, and is advised by telephone of the name of the appointed lawyer. In the Beirut district, legal aid is granted in approximately 75% of the civil cases, which converts to approximately 20 cases per year. Beirut is one of five districts under the jurisdiction of the Beirut Bar Association, and is not the most populous district. The Mt. Lebanon district, for example, is more populous with more poverty, and therefore, has more legal aid cases. In that district, in each of the years beginning in 2005, the first instance judge responsible for making legal aid decisions has entered decisions granting legal aid in approximately 50 cases and denying legal aid in between 20 and 30 cases. A representative decision and appointment letter in a civil case is attached as Appendix H.

The appointment of legal aid lawyers in criminal cases is less complex, and typically is accomplished as follows. In police stations, there is a banner advising the persons of their right to a lawyer, among other rights, under article 47 of the Code of Criminal Procedures. When a suspect is summoned to the police station, the suspect has the right to confer with a lawyer, but not to have the lawyer present at the time of the police questioning. Under article 77 of the Code of Criminal Procedures, the suspect has a right to remain silent and not answer any questions. If the Attorney General approves the arrest of a suspect following police questioning, the suspect is referred to the investigative judge, who should, at every appearance, advise the suspect of his or her right to a lawyer, including a legal aid lawyer, to be present during the questioning of the suspect and witnesses by the investigative judge. Upon the request of the suspect, the judge can seek the appointment of a legal aid lawyer through the Bar Association, or, in simpler cases, appoint a lawyer in the courtroom to advise and assist a suspect (strictly pro bono). In minor criminal cases such as contraventions (e.g., speeding tickets), where a sentence to jail is not possible, suspects do not need and do not request legal aid lawyers. Notice of the rights to a lawyer, to a forensic doctor, etc., are stated on the minutes that a suspect is asked to sign, and the fact that a suspect was advised of these rights must be noted on the minutes completed by the police and the investigative judge. Because the fees and expenses assessed against a suspect or an accused are quite low, there is no incentive to demand the appointment of a legal aid lawyer for the purpose of avoiding the payment of these fees and expenses. A representative decision and appointment letter in a criminal case is attached as Appendix I.

Upon the receipt of a request for appointment of a legal aid lawyer, the Legal Aid Commission administrator selects a lawyer from the list for referral to the President of the Commission for review and approval and transmittal to the President of the Association. Typically, the administrator selects a lawyer or trainee lawyer from the list based upon the numerical order of the list. However, based upon their knowledge and experience acquired over several years, the administrator or the Commission President may go outside of the numerical order in certain complex or more difficult cases, e.g., cases before the Court of

Cassation, to select a particular lawyer or trainee lawyer, or to select trainee lawyers for less serious criminal cases. Otherwise, selection criteria are not applied. This knowledge and experience is not retained in the institutional memory of the Commission. The Commission meets monthly to consider legal aid appointments, to discuss program improvements and best practices, and to meet with citizens with questions about legal aid. Typically, only a few members attend these meetings, and the appointment process is left in the hands of the administrator and Commission President, subject to the final approval of the President of the Association. The Commission does not send out any orientation materials to appointed lawyers, and does not maintain any prepared information for distribution to the public or NGO's. Soon, however, a guidebook prepared by the SIJCAJ Project, entitled *A Guide to Civil Legal Aid in Lebanon for Citizens & Foreigners*, will be made available to the Commission for distribution to lawyers and the public. If an appointed lawyer does not appear for court or performs badly, the court may contact the Commission, which happens rarely, and the lawyer may be stricken from the list. A lawyer who requests money from a legal aid client will be stricken from the list. The Bar Association does not have a program for the recognition of lawyers and trainee lawyers who accept appointments in legal aid cases.

The number of legal aid cases has remained fairly static over the past several years: 2008 (495 cases); 2007 (600 cases); 2006 (496 cases); 2005 (350 cases); 2004 (541 cases); 2003 (665 cases); 2002 (699 cases); 2001 (889 cases); and 2000 (1,962 cases). It should be noted that according to Commission reports, these totals include a small number of cases with multiple accused, as well as cases being handled by lawyers who were working with the United Nations High Commissioner for Refugees and one NGO employing six or seven lawyers to represent minors in juvenile cases. These two categories of cases are more properly viewed as NGO cases, and not as cases handled through the Legal Aid Commission assignment process. Presently, there are approximately 120 open legal aid cases, 80% of which are criminal cases. The UN program ended in 2008. Compared to the need, as suggested by the above-referenced demographic and prison statistics, the relatively low number of legal aid cases is striking, and can be attributed to several factors. First and foremost, the vast majority of persons living in Lebanon are not aware of their right to demand legal aid, and its availability. This reality was confirmed by the Minister of Justice, judges, lawyers, Bar Association leaders, and NGO representatives, as well as one interviewee presently in the process of demanding legal aid in a civil case. Furthermore, according to a survey undertaken by the Association for the Protection of Rights and Freedoms, an NGO, in 2008, there is a pronounced lack of trust and confidence in the judicial sector on the part of the public. Second, and of less import, is the cultural imperative to protect and assist family members, including the pooling of resources to retain an attorney. Third, and again of less import, is the perceived stigma that attaches in civil cases as a result of the requirement that a person secure and file a declaration by the mayor or other local official attesting to the person's indigent status. Fourth, and of far less import, is the fictional notion that legal aid attorneys are not "real attorneys." Irrespective of the reasons, it is fair to conclude that when the average number of legal aid cases is compared to the universe of those eligible for legal assistance, including accused in prison in pre-trial detention, and the supply of lawyers and trainee lawyers, legal aid is presently dramatically underutilized.

Recently, the Council of the Bar Association took action to add a surcharge to the fee imposed for registration of a power of attorney to support the Association's legal aid fund; this surcharge should permit a fee increase for legal aid cases from \$100 to \$300 - \$400 per case, depending on the number of cases. The proceeds from this surcharge are presently being collected, but the increased fee has not yet gone into effect.

(4). Training

Over the past three years, training of lawyers participating in legal aid has been sporadic and ad hoc. In October of 2008, the SIJCAJ Project, in association with the Beirut Bar Association, sponsored a two-day conference on the delivery of legal aid. Included in the conference agenda were several short presentations on various subjects, including the legal aid delivery system in the United States and its future, access to justice for the poor, civil legal aid access in the Court of Cassation, the Legal Aid Commission, a practical approach to legal aid in criminal cases, legal aid in administrative proceedings, and an overview of legal aid in military and criminal courts. During the three-year period, no other programs were presented directed specifically to the training of legal aid lawyers. As part of the three-year internship, trainee lawyers are required to participate in seminars on various subjects sponsored by the Bar Association; seminars on the topic of legal aid eligibility and representation of legal aid clients have not been regularly presented.

The Bar Association, through its twelve Board members and six-member Commission to Oversee Lawyer Training, is in the process of establishing a Lawyer Training Institute, which will provide required training for trainee lawyers and continuing legal education opportunities for lawyers. It will vet trainings proposed by NGO's and other outside agencies. Two workshops or courses per year will be devoted to the provision of legal aid. A curriculum for 2009-10 is being prepared, which will include required courses and optional courses. The legal aid courses will be among those required in the second year of the Institute for second-year trainee lawyers. A paid director, who is a law faculty professor, has been appointed to administer the Training Institute, and will be assisted by a part-time administrator. Judges, lawyers, and law faculty professors will be recruited to act as instructors, and practical workshops will be emphasized over lectures. Training of trainers training for the instructors will be available through an existing European Union program, although it will not be required. The Institute will be inaugurated in October, and begin its first year in November. Thus, the Beirut Bar Association has taken a significant step toward the establishment of a sustainable continuing legal education program for lawyers and trainee lawyers.

(E). View from the Ground – Tripoli

In 1920, the lawyers in Tripoli started the Tripoli Bar Association. The Association, which covers the district of North Lebanon, has approximately 1,200 lawyer members and 300 trainee lawyer members. This year, an entrance examination was not offered to law faculty graduates, and no trainee lawyers were admitted to the Association. Typically, trainee lawyers are not paid during their three-year internship. The Council of the Association is composed of six members, including the President, and there are four commissions: the Commission on Discipline, the Commission on Social Activities and Public Relations, the Commission on Human Rights, and the Commission on the Training Institute for Lawyers. The term of the president is two years, nonrenewable, and the term of the members is three years, renewable once. One third of the members of the Council are elected every two years at the General Assembly. The Association receives no financial support from the government, and supports its activities through several funding sources. In addition to annual membership dues, the Association assesses a fee for each power of attorney executed by a client. Also, the Association has developed a schedule of mandatory down-payment legal fees, depending on the type of case, which must be collected by a

lawyer from the client at the time of the execution of a power of attorney. These fees must then be turned over to the Association, which deposits them in one of two accounts in separate banks. After the checks have cleared, the Association pays 93% of the down-payment fee to the lawyer, and retains 7.0% for the treasury. Through this device, additional operating funds for the Association are generated. Any interest earned on the bank accounts is retained by the Association. In addition to retirement benefits, the Association maintains health insurance for all its members. None of the funds received by the Association are earmarked for legal aid. The Association maintains a website and most of its members have computers. The Association does not publish a newsletter.

The Commission on the Training Institute for Lawyers conducts the seminars and other educational programs that are required of trainee lawyers. These seminars and programs are also open to member lawyers for continuing legal education. The direction of the Institute is toward small group sessions designed to continue over several days with an emphasis on procedure and practice, as contrasted with lectures. These sessions are open to prosecutors, judges, and law students. Over the course of the past three years, there have been no training programs directed specifically to lawyers and trainee lawyers appointed to legal aid cases.

In the district of North Lebanon, there are approximately 300 law firms, typically with only a few lawyers. There are no more than 10 law firms with as many as 10 lawyers. A high percentage of the law firms are located in Tripoli, a city with a population of approximately 500,000, but there are firms in other cities as well. These firms are not organized as civil professional companies, as they are in Beirut. North Lebanon is noted for its large and extended families. Often, there is at least one lawyer in a family. Therefore, lawyers are often called upon to provide legal services on a *pro bono publico* basis to relatives, friends, and friends of relatives.

The Tripoli Bar Association does not maintain a commission on legal aid, and the legal aid appointment process is administered directly by the office of the President. A list of legal aid lawyers is not maintained, and when the President receives a request from a court, he appoints a lawyer, which in most cases is a trainee lawyer. For each case, the appointed lawyer receives a fee of \$200 – \$260, depending upon the nature of the case, and for the rare complicated case, a fee of up to \$500 might be paid. To date, during this calendar year, appointments have been made in 30-40 cases, and the average in a year is approximately 50 cases. The majority of cases in which legal aid lawyers are appointed are serious criminal cases, excluding drug trafficking cases, where the accused have financial resources, and murders, where the families of the accused raise sufficient funds to retain private counsel. Most of the legal aid clients are Lebanese citizens. Because the cases are predominantly assigned to trainee lawyers, the level of preparation and representation is not always high. Adequate supervision and mentoring of the trainee lawyer by the lawyer with whom the trainee lawyer is interning is spotty; no case monitoring or additional supervision or support is provided by the Bar Association. Clients are not asked to evaluate the service provided. A better quality of service would be received by legal aid clients if lawyers with five or more years of experience were appointed. However, the level of fees paid for legal aid lawyers is too low to attract experienced lawyers. Incentives in addition to higher fees, such as public recognition by the Bar Association, would provide some additional motivation to accept legal aid appointments. As mentioned above, Bar Association members provide a range of *pro bono* advice and assistance as a result of extensive family and community contacts.

Although a needs assessment has not been undertaken, based upon anecdotal information, the need for legal aid is greatest in serious criminal cases, and with respect to the civil area, in landlord and tenant and family cases. In criminal cases, judges often by-pass

the legal aid appointment process by appointing a lawyer directly from the courtroom. As discussed in the next subsection, the Bar Association is working with the American Bar Association Rule of Law Initiative Lebanon to provide legal assistance in certain types of cases. Further collaborations with NGO's, as well as with the Law Faculty of the Lebanese University, the only law faculty in North Lebanon, in a law clinic setting is a possibility. Most low income people are not aware of their right to legal aid. Nevertheless, Bar Association members would likely resist any widespread community education effort in this regard out of fear that demands for legal aid would overwhelm their ability to provide legal aid representation and at the same time earn a living.

(F). Role of NGO's

While there are a number of NGO's operating in Lebanon, apparently only four NGO's offer legal assistance systematically to poor persons: Caritas, Association Justice et Misericorde, Dar Al Amal, and Fondation Pere Afif Osseiran. While it was viewed as beyond the scope of the consultant's charge to assess the programs and services delivered by all these NGO's, contact was made with one of the most active of the four, Dar Al Amal, primarily to ascertain the potential availability to the Bar Associations of NGO's as a source for the delivery of legal aid. Contact was also made with the American Bar Association Rule of Law Initiative Lebanon.

The Dar Al Amal project was formed in 1969 to assist girls and women who were victims of abuse or other forms of brutalization. In 1996, it added as a mission the social rehabilitation and reintegration into society of victims of prostitution and drug trafficking. In 2001, it began to provide a range of social services to women in two of the four prisons for women. Presently, the project is providing services in all four prisons for women, as well as to women who are victims of domestic abuse, prostitution, and drugs. The project has two basic components: services to women in prison, either following conviction or in pretrial detention; and women coming to the office suffering from some form of abuse. With respect to women in prison, the project provides multidisciplinary social services, and keeps thorough records of the contacts with the women. Many women awaiting trial do not have lawyers, and therefore, the project seeks to assist the women in securing legal representation. In 2008, it obtained funding through a collaborative agreement with the Drosos Foundation, and with the funds, retained a law firm to provide legal assistance to women in prison on a variety of family issues, as well as the criminal charges. It has also secured the services of five lawyers through the Legal Aid Commission of the Beirut Bar Association, and supplements the \$100 per case paid by the Commission up to \$1,000 or more depending on the complexity and length of the case. Three staff social workers monitor and supervise the activities of all the lawyers by talking with the clients and following-up directly with the lawyers. The project has recently approached the Commission to discuss sustainability after the Drosos funding expires. Using a short questionnaire developed by the SIJCAJ Project, Dar Al Amal conducted a survey of 13 women in Baabda Prison and 15 women in Tripoli prison during the week of September 7, 2009. The relevant results are as follows: (1) At the time of the survey, 12 of the 28 women were aware of their right to be represented by a lawyer, and only one of the 28 women was aware of legal aid. (2) At the time of the beginning of the criminal investigation, five of the 28 women were aware of their right to contact a lawyer, and four availed themselves of that right. (3) Only eight of the 28 women had been asked by a judge if they wanted the assistance of a lawyer. This limited survey supports anecdotal information from the project that many women awaiting trial in prison are unaware of their right to legal aid, and its availability. Many of the abused women who are served directly by the project

outside of prison are illiterate and have been sexually abused as children, and they need legal assistance concerning a variety of family and juvenile issues, including domestic abuse. Some of the issues are before administrative tribunals or religious courts, and the project looks to volunteer attorneys providing services on a pro bono basis. The project has prepared a manual for use by staff and the attorneys, and is in the process of preparing a manual on legal rights for use by prospective clients.

The ABA Rule of Law Initiative project began in 2005 with a collaboration with La Sagesse University Law faculty to establish a legal aid clinic for forth-year students (three months of classes in human rights and three months of clinic work with NGO's under the supervision of lawyers working for the NGO's) to provide legal assistance to juveniles, refugees, migrants, and battered women. Presently, the project has a program on anti-corruption involving the preparation of two laws, one on freedom of information and a second on whistle-blower protection. The project is just starting a two-year program in Tripoli in collaboration with the Tripoli Bar Association and four NGO's: Dar Al Amal, Caritas, Pere Afif Osseiran, and the Lebanese Council to Resist Violence Against Women. Following the intensive training of 30 lawyers, 15 will be selected and assigned to the NGO's to provide legal assistance in criminal and civil matters. The lawyers will be hired by the NGO's and trainee lawyers will come one day per week. According to the project, 95% of the women in prison in Tripoli are migrants.

III. FINDINGS

Finding Number I – Bar Association Commitment: The Bar Associations of Beirut and Tripoli are committed to the provision of legal aid to the indigent, but their present system of delivering legal aid does not result in the systematic provision of quality legal representation to the clients.

Historically, both Bar Associations have demonstrated a commitment to the provision of legal aid. However, among Bar Association leaders, judges, lawyers, and other central figures in the justice system is the belief that overall, the quality of legal representation is not consistently high. The consultant agrees, and concludes that the present programs do not, on a systematic basis, provide high quality legal representation to legal aid clients.

There are several factors that contribute to this result. First, notwithstanding the constitutional and statutory mandate for the provision of legal aid, the government does not contribute directly to the funding of legal aid. Second, neither Association employs a systematic way of recruiting experienced lawyers to represent legal aid clients, relying too heavily on the use of trainee lawyers, who, by definition, are inexperienced and in need of supervision and mentoring. Third, the fees paid by the Associations for legal aid cases are far too low to attract the participation of experienced lawyers and to promote the notion that lawyers should take pride in their work on legal aid cases. Fourth, training for lawyers and trainee lawyers in substantive and procedural law applicable to legal aid cases is sporadic and not systematic. Fifth, neither Bar Association has a program in place to monitor cases, or supervise and mentor lawyers and trainee lawyers who are appointed to represent legal aid clients. Sixth, neither Bar Association solicits evaluations from legal aid clients. Seventh, the Bar Associations and other institutions in the justice sector do not routinely recognize the work of lawyers and trainee lawyers who represent legal aid clients. Eighth, the turn-over every two years of the presidency of the Bar Associations results in a lack of leadership

continuity, although because of the existence of a Legal Aid Commission, this lack of continuity is less pronounced in the case of the Beirut Bar Association.

Finding Number 2 – Funding Sources: The present sources of funding available to the Bar Associations of Beirut and Tripoli for the delivery of legal aid are inadequate, uncertain, and incompatible with a program that must expand to meet the needs of eligible clients; and additional sources of funding must be found.

One measure of a mature and high-quality legal aid system is the availability of secure and dedicated funding sources that have the potential to grow as the need for services increases. Such funding sources do not presently exist in Lebanon. Rather, the legal aid programs of the Beirut and Tripoli Bar Associations are funded through a combination of membership dues, assessments, surcharges, and fees.

In Beirut, in addition to annual membership dues, the Association receives revenue from a notary public stamp that is required to be affixed to powers of attorney, contracts, and other legal documents; a bar association stamp in the amount of approximately 60 cents that is required on all papers filed in court; and a fee for each power of attorney executed by a client. In Tripoli, in addition to annual membership dues, for each power of attorney executed by a client, the Association assesses a fee. Also, the Association has developed a schedule of mandatory down-payment fees, depending on the type of case, which must be collected by a lawyer from the client at the time of the execution of a power of attorney. These fees must then be turned over to the Association, which deposits them in one of two accounts in separate banks. After the checks have cleared, the Association retains 7.0% for its treasury.

With the exception of the membership dues, it is reasonable to assume that these assessments and fees are passed on to clients who can afford to pay them. Nevertheless, it should be recognized at once that, with the exception of the Beirut Bar Association power of attorney surcharge, the expenditure of all the funds collected by the Associations is subject to intense competition from necessary and important programs, including lawyer training and health care and retirement benefits for members and their dependents, as well as from legal aid. In the end, there are real and practical limits on the extent to which members will tax themselves and other clients to pay for a legal aid program. Therefore, the present systems in place to fund legal aid must be seen as neither secure nor sustainable as the program goes forward and expands. Certainly, there is a general consensus that the fees paid for legal aid cases are wholly inadequate to attract experienced and motivated attorneys. It is absolutely essential that both Bar Associations begin to seek additional and varied funding sources to support the provision of legal aid services. Otherwise, there is very little prospect that the unrealized demand for legal aid can be met with quality legal representation.

Finding Number 3 – Underutilization of Services and Undetermined Needs: Legal aid in Lebanon appears to be greatly underutilized, but the need for legal aid cannot be quantified, analyzed, and appropriately prioritized without the completion of comprehensive needs assessments by the Bar Associations of Beirut and Tripoli.

The demographic and prison population statistics noted above (28% of the population in poverty or extreme poverty; a high percentage of the prison population in pretrial detention), along with the anecdotal information provided during several interviews, support a reasonable inference that the universe of people eligible for, and in need of legal aid is quite large, and that when that universe is viewed against the number of people

actually being served (approximately 500 cases per year in Beirut and approximately 50 cases per year in Tripoli), the legal aid programs operated by the two Bar Associations are greatly underutilized. Perhaps, some of the demand is being met through pro bono services, but such services, though important to the stature of the legal profession and to the society at large, cannot be viewed as a substitute for the systematic delivery of quality legal aid to the indigent. Likewise, the direct appointment in criminal cases of lawyers who happen to be in the courtroom is not an appropriate substitute for quality legal aid because there is no possibility of supervision and follow-up in such an ad hoc setting. The high percentage of the prison population in pretrial detention suggests a pressing need for legal aid representation among that population, as fundamental human rights to freedom and liberty are at stake. A similar need in family law cases and other civil cases, such as landlord and tenant disputes, has also been suggested.

A needs assessment is beyond the scope of the present consultancy, and it is not appropriate to suggest where the need for legal aid is most pressing. However, thorough needs assessments should be performed by both Bar Associations. At present, the types of cases in which legal aid lawyers are being appointed is being determined exclusively by the decisions granting legal aid arriving from the varying courts. A needs assessment would inform the decision-making process of how to target outreach and community education efforts, a prioritization process that is critical in times of limited resources. A needs assessment would also guide efforts to expand legal aid coverage through collaborative agreements with NGO's and the government directed at the provision of legal aid to targeted populations. Through such collaborative agreements, additional funding resources can be tapped by the Bar Associations for the provision of legal aid. Finally, a needs assessment would inform curriculum development for the lawyer training institutes of the two Associations.

Finding Number 4 – Case Monitoring and Lawyer Supervision: The reliance by the Bar Associations of Beirut and Tripoli on the supervision of trainee lawyers in legal aid cases by the lawyers with whom they are interning is misplaced, and the Bar Associations should take a much more active direct role in the monitoring of legal aid cases and the supervision and mentoring of lawyers appointed to those cases.

Quality control of the legal representation being provided is largely lacking in the legal aid programs of the two Bar Associations. In its early stages, the Legal Aid Commission of the Beirut Bar Association maintained a committee of experienced lawyers to monitor legal aid cases and provide guidance and advice to lawyers and trainee lawyers representing legal aid clients. The committee was allowed to dissolve. Presently, neither Bar Association systematically monitors legal aid cases while they are pending or provides supervision of guidance to lawyers and trainee lawyers appointed to represent legal aid clients. Rather, with respect to trainee lawyers, supervision is left entirely to the lawyers with whom the trainee lawyers are doing their internships, and with respect to lawyers, to self-supervision. This system, while compatible with the statutory internship scheme, is almost universally viewed by lawyers and judges as an ineffective way to systematically ensure quality legal representation. Of course, many lawyers and trainee lawyers provide quality legal assistance to their legal aid clients, but many others do not. Neither Bar Association has a system in place to identify lawyers and trainee lawyers in need of assistance and to provide that assistance. Accordingly, both Bar Associations should develop protocols for monitoring cases and lawyer performance while the cases are in process, and for following up with supervision and mentoring when problems are identified.

Finding Number 5 – Reliance on Trainee Lawyers: In the legal aid case appointment process, the Presidents of the Beirut and Tripoli Bar Associations rely too heavily on trainee lawyers; and more experienced lawyers should be recruited to participate in the legal aid program.

To be successful in ensuring full access to justice for low-income persons, the legal aid programs of the Beirut and Tripoli Bar Associations will require the participation of experienced, as well as trainee lawyers. Presently, a disproportionate number of legal aid cases are assigned to trainee lawyers. Of course, trainee lawyers are often enthusiastic and can profit from the experience gained through appointments in legal aid cases. At the same time, trainee lawyers are, by definition, the least experienced and likely the least skilled members of the Associations. Sometimes, they are also not highly motivated. For these reasons, the quality of the legal representation of legal aid clients may suffer. Efforts should be made to recruit lawyers experienced in criminal and civil cases to actively participate in the legal aid programs.

Finding Number 6 – Sustainable Lawyer Training Programs: The Bar Associations of Beirut and Tripoli both have the capacity and institutions in place to provide a sustainable, quality legal education and training program for lawyers and trainee lawyers, including those representing legal aid clients.

Both Bar Associations support standing commissions on lawyer training and have established lawyer training institutes, thereby recognizing the fundamental importance to the legal profession of continuing legal education. The Training Institute for Lawyers of the Tripoli Bar Association has a member of the Association Council as its Director, and the Lawyer Training Institute of the Beirut Bar Association will be directed by a law professor hired for that purpose. The Institutes provide an ideal forum for the delivery of conferences and workshops required for trainee lawyers, as well as the presentation of more formal courses for lawyers and trainee lawyers. Practice, procedure, and substantive courses particularly important in the representation of legal aid clients can be included.

Finding Number 7 – Administrative and Information Technology Support: The Bar Associations of Beirut and Tripoli lack sufficient administrative and information technology resources to ensure the delivery of quality legal aid services.

A mature and successful legal aid program, as envisioned for Lebanon, will require administrative and technology support. Paid administrative support is presently available in both Bar Associations, but the two persons providing that support have other responsibilities for the Associations in addition to legal aid. Available information technology is modest at best. Therefore, it is very difficult to access reliable data about either program. While the two persons performing the administrative function have great experience and knowledge, that experience and knowledge is not committed to any institutional memory. A successful program that systematically provides quality legal representation will require upgrades in administrative and information technology support.

IV. RECOMMENDATIONS

(A). Introduction

Based upon the above findings, the consultant makes the following recommendations. These recommendations are made following comments received on tentative recommendations from Bar Association members at workshops conducted in Beirut and Tripoli. Discussions were held with members of the SIJCAJ Project regarding those tentative recommendations before and after the workshops. The Bar Associations of Beirut and Tripoli have demonstrated, through their present programs, a commitment to legal aid. Therefore, in formulating the following recommendations, the consultant has recognized the importance of using the existing programs administered by the Bar Associations as the foundation for the development of a sustainable quality legal aid program in Lebanon. Although many of the recommendations are the same for both Bar Associations, they are, for ease of reference, presented separately for each Association.

The recommendations are not presented in a priority order. However, because the results of the recommended needs assessments will inform the implementation of several other recommendations, they should be viewed as a high priority, along with the recommendations that go to the monitoring of legal aid cases and the supervision of legal aid lawyers. With the exception of the recommendation to establish a government-funded pilot project in collaboration with the Minister of Justice and the President of the High Judicial Council, which is potentially burdened with political impediments, there are no impediments to the implementation of the other recommendations. Cost implications, if any, will be noted in the discussion of each recommendation.

(B). Recommendations – Beirut Bar Association

(I). Needs Assessment and Targeted Services

Going forward, there will be limited resources for the funding of the legal aid program administered by the Beirut Bar Association. Therefore, it is essential that the Association make every effort to use those limited resources to meet the most compelling needs for legal aid representation. A comprehensive assessment should be undertaken to ascertain those needs. The needs assessment should include the following components: (1) a review of the latest data on population, both citizen and non-citizen, by district; (2) a review of the latest data on income levels and poverty; (3) a review of the prison population, segregated by subgroups of those prisoners awaiting disposition of criminal charges, further segregated by broad category of criminal charge, those prisoners serving sentences following conviction but with appeals pending, and those prisoners serving sentences but with no appeal pending; (4) a representative survey of the prison population to determine the level at which prisoners in the above categories are being represented by a lawyer, have been advised in court of their right to be represented by a lawyer, and are aware of legal aid; (5) interviews with NGO's to ascertain subgroups of the general population with special needs for legal aid; and (6) other methods of ascertaining the needs of the low-income population in Lebanon for legal services.

Based upon the above information, the Association should assess all legal problems, concentrating on the following primary needs: freedom from incarceration and wrongful conviction; decent and affordable housing; adequate nutrition; sufficient income; physical safety and security; protection of civil rights and fundamental freedoms; and safety, security, and stability of families.

Based upon the results of the needs assessment, the Association should target its efforts to deliver legal aid to those most in need. These targeted efforts might include a public information campaign regarding the availability of legal aid directed to certain subgroups of the low-income population, collaborative efforts with selected NGO's to

provide legal aid assistance to subgroups served by the NGO's, and the establishment of a pilot project in collaboration with the Ministry of Justice and the High Judicial Council. Such collaborative efforts have the potential for effectively increasing the funding available for legal aid.

The results of the needs assessment should also be used to inform the curriculum of the Lawyer Training Institute.

The needs assessment could be performed at relatively little cost, perhaps with technical assistance from an outside agency.

(2). Reinstatement of Monitoring Committee

At its inception, the Legal Aid Commission supported a small committee of experienced lawyers to monitor legal aid cases and provide guidance and assistance to lawyers and trainee lawyers appointed in legal aid cases. That committee should be reinstated. Such a committee is essential to the provision of quality legal representation, to full access to justice, and ultimately, to the success of the legal aid program. The committee should be composed of lawyers experienced in criminal and civil cases who are committed to the notion of full access to justice and the success of the legal aid program. Members of the committee should (1) develop reporting protocols for appointed lawyers and trainee lawyers regarding their cases to permit monitoring of the progress of those cases, (2) monitor the cases to identify potential problems with the legal assistance being provided, (3) work with appointed lawyers and lawyer trainees to address any problems identified, (4) provide guidance and mentoring to lawyers and trainee lawyers on an as-needed basis, and (5) conduct short workshops and discussions on a variety of legal practice and substantive law topics. The protocols and reporting standards for the pilot project proposed in subsection (4) (Evolution to Stable Funding) should be developed by the monitoring committee independent of the pilot project. The monitoring committee would provide the level of case monitoring and supervision necessary to ensure the provision of quality legal representation in the Association's legal aid program. As the members of the committee would serve on a volunteer basis, there would be little to no additional cost to the Association.

(3). Recruitment of Experienced Lawyers

To be successful in ensuring full access to justice for low-income persons, the Association's legal aid program will require the participation of experienced, as well as trainee lawyers. Therefore, efforts should be made to recruit lawyer members experienced in criminal cases and various categories of civil cases. The names of these lawyers could be listed on rosters based on case type, and trainee lawyers, depending on the expertise of the firms in which they are interning and their own interests, could be listed on the same rosters. These rosters would then be available to the Legal Aid Commission and the President for use in the appointment of lawyers to particular cases.

As the fees paid for legal aid cases will never be sufficient to fully compensate lawyers for the hours of work expended in providing quality legal representation to legal aid clients, Bar Association members who volunteer for appointment in legal aid cases should be recognized publicly for their service. The Association has a tradition of recognizing members for long service. A similar tradition should be instituted to recognize members for the public service involved in representing legal aid clients. This recognition could be done on an annual basis in collaboration with the Minister of Justice and President of the

High Judicial Council. A report of the recognition ceremony could be included on the Association's website. There would be minimal cost associated with this annual event.

(4). Evolution to Stable Funding

The present systems in place to fund the Association's legal aid program are neither secure nor sustainable as the program goes forward and necessary expansion occurs. The most important long-range goal for the Association should be the evolution to secure and stable funding for the legal aid program. Legal aid is mandated by statute in Lebanon. As access to justice is essential to the success of a modern justice system in Lebanon, legal aid must be viewed as a critical component of the justice sector. Therefore, it should be funded by the government. To ignore this reality is to accept the risk that the justice system in Lebanon will be viewed as incomplete and not fully developed.

Given the competing demands for funding in the justice sector, stable government funding for legal aid will not occur overnight and may seem idealistic. But just as this pivotal issue of access to justice has been addressed and resolved in many other countries based upon an initial modest investment by the government, a beginning must be made in Lebanon. Historically, although not recently, the budget of the Ministry of Justice has contained a small appropriation to support the activities of the Bar Association. Relying on this historic precedent, the Bar Association, in collaboration with the Minister of Justice and the President of the High Judicial Council, should undertake the planning of a pilot project to be funded by the government. To implement the project, the Bar Association could form a not for profit legal services corporation with corporate governance under the control of the Association. To be successful and to be of interest and eligible for government funding, the pilot project should have the following components:

- A legal staff consisting of at least one experienced lawyer to act as supervisor and one trainee lawyer
- An administrator
- A program dedicated to the provision of legal aid representation on behalf of a targeted subgroup of persons charged with criminal offenses
- Written eligibility criteria to ensure that services are provided only to the indigent
- Written protocols:
 - To ensure that all staff are thoroughly oriented to their positions
 - To ensure that the lawyers are diligently and aggressively representing their clients
 - To ensure that all cases are periodically reviewed by the supervising lawyer
 - To ensure that the lawyers are attending available and relevant training programs
 - To ensure that cases are progressing and all deadlines are being met
 - To ensure that client contacts, deadlines, and case developments are promptly and thoroughly recorded in a case file
 - To ensure the confidentiality of the lawyer and client relationship
 - To ensure the periodic performance evaluation of the legal and administrative staff
 - To ensure that a client evaluation of the services provided is obtained at the end of the case

- Periodic reports that show the status and progress of cases and the results of completed cases
- Periodic reports that summarize the client evaluations

A successful pilot project would provide a model and precedent for expansion of the legal services corporation in the future. The cost of incorporating the legal services corporation would be minimal. Government funding for the pilot project should not require a contribution on behalf of the Association, but the result of negotiations with the Minister of Justice and other government entities cannot be predicted.

(5). Legal Aid Training Curriculum and Certificate

The Bar Association's Legal Training Institute is an ideal forum for the presentation of practice and substantive and procedural law courses of particular importance to legal aid lawyers. Through the hiring of a paid director, the Association has demonstrated a clear commitment to sustaining the Institute in the long term. This is a very important step for the Association because continuing legal education is a precondition to a quality legal profession.

The Director of the Institute, perhaps with technical assistance from an outside agency, should undertake a training needs assessment and develop a sub-curriculum for legal aid practitioners, both lawyers and trainee lawyers. That sub-curriculum should include, among other courses, (1) an orientation course covering the statutory basis for legal aid and the expectations following appointment; (2) a course on special problems associated with the representation of poor persons, e.g., illiteracy, cultural reticence, lack of trust and confidence in the justice sector; (3) practical courses and workshops directed at court practices, e.g., drafting papers, filing papers, arguing motions and cases; (4) a course concentrating on the particular obligations of a criminal defense attorney; and (5) courses on substantive law particularly important to legal aid clients, e.g., criminal law and procedure, family law, landlord and tenant law. Materials should be prepared for these courses, and instructors solicited to present the courses. The Director might consider approaching an outside agency to provide training of trainers training for these instructors.

Upon the completion of the courses included in the legal aid sub-curriculum, the lawyer or trainee lawyer would be awarded a Legal Aid Certificate. This Certificate would serve two purposes: it would qualify the recipient to be appointed to legal aid cases, and it would serve as official recognition of the recipient's dedication to the provision of quality legal representation to the indigent. Retention of the Certificate would be dependent on the attendance at prescribed courses in future years.

The preparation of special course materials and the training of instructors would potentially involve some costs, although likely minimal.

(6). Special Project Collaborations

The limited financial resources of the Bar Association can effectively be extended by collaborating with NGO's, and possibly university law faculty practice clinics, on special projects to provide legal assistance to sub-groups of low-income persons. Often, NGO's bring with them independent sources of funding, and the Association should seek out opportunities to collaborate with NGO's which have, as their mission, service to poor and vulnerable persons. There is precedent for such collaborations.

Through the needs assessment suggested above, the Association will have the opportunity to evaluate the programs of all NGO's dealing with human rights and rule of

law issues. The Association should consider developing pilot projects that support or complement the programs of these NGO's with the idea that the Association will provide the legal staff and necessary supervision, and the NGO's will contribute to the funding.

Through such collaborative projects, the Association would be able to effectively extend the coverage of its legal aid program to additional eligible persons, provide positions and experience for its members, and enhance its reputation in the national and international community and with the government. The cost of developing and negotiating these collaborative projects would be minimal.

(7). Judicial Training

There is a need to train judges on the laws applicable to the appointment of legal aid lawyers, the need to advise defendants in criminal cases of their right to a legal aid attorney, the importance of utilizing legal aid instead of direct appointment from the courtroom in criminal cases, the role of lawyers in representing legal aid clients, and the resources available from the Bar Association to address any problems identified by judges in particular legal aid cases. The Judicial Training Institute presents an ideal forum for delivering this training, and the course materials and instructors used in the Lawyer Training Institute could be made available for this purpose. This training should be made available to sitting judges, as well as trainee judges.

Little to no additional cost would be involved in the presentation of training courses for the judges.

(8). Administrative and Technology Assistance

The ability of an organization to monitor, evaluate, and administer its programs has been greatly enhanced by the availability, at relatively low cost, of computer hardware and software. It is fair to say that one indicia of a modern and progressing justice system is the routine use of this information technology.

The Bar Association dedicates a part of one full-time staff person to the administration of its legal aid program. The information technology hardware and software available for use by the administrator is outdated and inadequate. Although the administrator does a good job with the tools at hand, the result of the lack of full-time administrative support and modern information technology is the absence of reports that would allow the Legal Aid Commission and the Association to better monitor, evaluate, and administer the legal aid program. The Association should consider devoting additional administrative assistance and upgrading the information technology available to the Legal Aid Commission.

There would be obvious costs to the Association in adopting this recommendation.

(C). Recommendations – Tripoli Bar Association

(1). Needs Assessment and Targeted Services

Going forward, there will be limited resources for the funding of the legal aid program administered by the Tripoli Bar Association. Therefore, it is essential that the Association make every effort to use those limited resources to meet the most compelling needs for legal aid representation. A comprehensive assessment should be undertaken to ascertain those needs. The needs assessment should include the following components: (1) a review of the latest data on population, both citizen and non-citizen, by district; (2) a

review of the latest data on income levels and poverty: (3) a review of the prison population, segregated by subgroups of those prisoners awaiting disposition of criminal charges, further segregated by broad category of criminal charge, those prisoners serving sentences following conviction but with appeals pending, and those prisoners serving sentences but with no appeal pending; (4) a representative survey of the prison population to determine the level at which prisoners in the above categories are being represented by a lawyer, have been advised in court of their right to be represented by a lawyer, and are aware of legal aid; (5) interviews with NGO's to ascertain subgroups of the general population with special needs for legal aid; and (6) other methods of ascertaining the needs of the low-income population in Lebanon for legal services.

Based upon the above information, the Association should assess all legal problems, concentrating on the following primary needs: freedom from incarceration and wrongful conviction; decent and affordable housing; adequate nutrition; sufficient income; physical safety and security; protection of civil rights and fundamental freedoms; and safety, security, and stability of families.

Based upon the results of the needs assessment, the Association should target its efforts to deliver legal aid to those most in need. These targeted efforts might include a public information campaign regarding the availability of legal aid directed to certain subgroups of the low-income population, collaborative efforts with selected NGO's to provide legal aid assistance to subgroups served by the NGO's, and the establishment of a pilot project in collaboration with the Ministry of justice and the High Judicial Council. Such collaborative efforts have the potential for effectively increasing the funding available for legal aid.

The results of the needs assessment should also be used to inform the curriculum of the Training Institute for Lawyers.

The needs assessment could be performed at relatively little cost, perhaps with technical assistance from an outside agency.

(2). Establishment of Legal Aid Monitoring Committee

In order to provide continuity of commitment for the legal aid program, the Tripoli Bar Association should establish a legal aid monitoring committee. This committee could take the form of a legal aid commission or be included in the charge of the Training Institute for Lawyers. The current President of the Association is committed to the provision of quality legal aid and to the continuing education of the lawyer and trainee lawyer members of the Association. However, a new president is installed every two years. Just as the Association has recognized the importance of continuity of commitment by establishing an on-going Training Institute for Lawyers, it should provide for the same continuity of commitment for the legal aid program by establishing a permanent legal aid monitoring committee. Not only would the committee provide for institutional continuity, it would serve an important role in monitoring the progress of legal aid cases and providing guidance and assistance to lawyers and trainee lawyers appointed in legal aid cases. Such a capacity for monitoring and supervision is essential to the provision of quality legal representation, to full access to justice, and ultimately, to the success of the legal aid program. The committee should be composed of lawyers experienced in criminal and civil cases who are committed to the notion of full access to justice and the success of the legal aid program. Members of the committee should (1) develop reporting protocols for appointed lawyers and trainee lawyers regarding their cases to permit monitoring of the progress of those cases, (2) monitor the cases to identify potential problems with the legal assistance being provided, (3) work with appointed lawyers and lawyer trainees to address

any problems identified, (4) provide guidance and mentoring to lawyers and trainee lawyers on an as-needed basis, and (5) conduct short workshops and discussions on a variety of legal practice and substantive law topics. The protocols and reporting standards for the pilot project proposed in subsection (4) (Evolution to Stable Funding) should be developed by the monitoring committee independent of the pilot project. The monitoring committee would provide the level of case monitoring and supervision necessary to ensure the provision of quality legal representation in the Association's legal aid program. As the members of the committee would serve on a volunteer basis, there would be little additional cost to the Association.

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To be successful in ensuring full access to justice for low-income persons, the Association's legal aid program will require the participation of experienced, as well as trainee lawyers. Therefore, efforts should be made to recruit lawyer members experienced in criminal cases and various categories of civil cases. The names of these lawyers could be listed on rosters based on case type, and trainee lawyers, depending on the expertise of the lawyers for whom they are interning and their own interests, could be listed on the same rosters. These rosters would then be available to the President for use in the appointment of lawyers to particular cases.

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A successful pilot project would provide a model and precedent for expansion of the legal services corporation in the future. The cost of incorporating the legal services corporation would be minimal. Government funding for the pilot project should not require a contribution on behalf of the Association, but the result of negotiations with the Minister of Justice and other government entities cannot be predicted.

(5). Legal Aid Training Curriculum and Certificate

The Bar Association's Training Institute for Lawyers is an ideal forum for the presentation of practice and substantive and procedural law courses of particular importance to legal aid lawyers. The Association has demonstrated a clear commitment to sustaining the Institute in the long term. This was a very important step for the Association because continuing legal education is a precondition to a quality legal profession.

The Director of the Institute, perhaps with technical assistance from an outside agency, should undertake a training needs assessment and develop a sub-curriculum for legal aid practitioners, both lawyers and trainee lawyers. That sub-curriculum should include, among other courses, (1) an orientation course covering the statutory basis for legal aid and the expectations following appointment; (2) a course on special problems associated with the representation of poor persons, e.g., illiteracy, cultural reticence, lack of trust and confidence in the justice sector; (3) practical courses and workshops directed at court practices, e.g., drafting papers, filing papers, arguing motions and cases; (4) a course concentrating on the particular obligations of a criminal defense attorney; and (5) courses

on substantive law particularly important to legal aid clients, e.g., criminal law and procedure, family law, landlord and tenant law. Materials should be prepared for these courses, and instructors solicited to present the courses. The Director might consider approaching an outside agency to provide training of trainers training for these instructors.

Upon the completion of the courses included in the legal aid sub-curriculum, the lawyer or trainee lawyer would be awarded a Legal Aid Certificate. This Certificate would serve two purposes: it would qualify the recipient to be appointed to legal aid cases, and it would serve as official recognition of the recipient's dedication to the provision of quality legal representation to the indigent. Retention of the Certificate would be dependent on attendance at prescribed courses in future years.

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(6). Special Project Collaborations

The limited financial resources of the Bar Association can effectively be extended by collaborating with NGO's, and possibly a university law faculty practice clinic, on special projects to provide legal assistance to sub-groups of low-income persons. Typically, NGO's bring with them independent sources of funding, and the Association should seek out opportunities to collaborate with NGO's which have, as their mission, service to poor and vulnerable persons. There is precedent for such collaborations.

Through the needs assessment suggested above, the Association will have the opportunity to evaluate the programs of all NGO's dealing with human rights and rule of law issues. The Association should consider developing pilot projects that support or complement the programs of these NGO's with the idea that the Association will provide the legal staff and necessary supervision, and the NGO's will contribute to the funding.

Through such collaborative projects, the Association would be able to effectively extend the coverage of its legal aid program to additional eligible persons, provide positions and experience for its members, and enhance its reputation in the national and international community and with the government. The cost of developing and negotiating these collaborative projects would be minimal.

(7). Judicial Training

There is a need to train judges on the laws applicable to the appointment of legal aid lawyers, the need to advise defendants in criminal cases of their right to a legal aid attorney, the importance of utilizing legal aid instead of direct appointment from the courtroom in criminal cases, the role of lawyers in representing legal aid clients, and the resources available from the Bar Association to address any problems identified by judges in particular legal aid cases. The Judicial Training Institute presents an ideal forum for delivering this training, and the course materials and instructors used in the Training Institute for Lawyers could be made available for this purpose. This training should be offered to sitting judges, as well as trainee judges.

Little to no additional cost would be involved in the presentation of training courses for the judges.

(8). Administrative and Technology Assistance

The ability of an organization to monitor, evaluate, and administer its programs has been greatly enhanced by the availability, at relatively low cost, of computer hardware and

software. It is fair to say that one indicia of a modern and progressing justice system is the routine use of this information technology.

The Bar Association dedicates a part of one full-time staff person, the administrative assistant to the President, to the administration of its legal aid program. In all likelihood, the information technology hardware and software available for use by the administrative assistant is outdated and inadequate. Although the administrative assistant does a good job with the tools at hand, the result of the lack of administrative support and modern information technology is the absence of reports that would allow the Association to better monitor, evaluate, and administer the legal aid program. The Association should consider devoting additional administrative assistance and upgrading the information technology available to the administration of the legal aid program.

There would be obvious costs to the Association in adopting this recommendation.

V. CONCLUSION

The Legal Aid Representation and Training Expert consultancy has resulted in an assessment of the legal aid programs administered by the Bar Associations of Beirut and Tripoli sufficient to support the findings and recommendations made. However, the assessment should be viewed as continuing in the sense that as new information becomes available and the reality on the ground changes, the assessment and recommendations should be modified accordingly. To that end, this report should be formerly updated and supplemented every six months during the life of the SICJAC project and any follow-on rule of law project, and the supplemented reports should be shared with the Bar Associations and the other stakeholders who will receive this Report. In addition, the SIJCAJ Project should remain available to provide material and technical assistance to the Bar Associations of Beirut and Tripoli as they undertake the implementation of the recommendations made in this Report.

APPENDICES

APPENDIX A

USAID TASK ORDER – TASK 4

Activities within this task will include:

- a) Technical assistance to the Beirut and Tripoli Bar Associations to increase their capacity in terms of quality of legal services to Lebanon's poor and disenfranchised, thereby improving access to justice.
- b) To develop reform consensus, NCSC will conduct a stocktaking, in consultation with relevant parties, of the existing structure for providing legal assistance, including ascertaining the number and experience level of participating attorneys, examine how the programs are supervised, determine training needs, and identify other related challenges facing the program. NCSC will then conduct a series of roundtable discussion in order to build a set of consultatively agreed action recommendation
- c) To improve oversight mechanisms NCSC will assist the Bar Associations to strengthen their oversight mechanisms to ensure better quality service, including, illustratively, policies and procedures for assigning counsel, monitoring attorney performance, and delineating lines of authority and accountability.
- d) To strengthen skills, NCSC will assist the Bar Association to establish sustainable, ongoing training programs for lawyers providing legal assistance services, including training trainers. NCSC will develop curriculum and a handbook, which will ultimately be distributed to the attorneys, addressing substantive legal matters relevant to the types of cases qualifying for legal aid and the Bar policies and procedures governing the provision of legal assistance.
- e) To increase the number of attorneys participating in legal aid, NCSC will support ongoing Bar Association efforts to recruit qualified attorneys to take on legal assistance. NCSC will work with the Bar to identify factors motivating attorneys to provide legal assistance services to act as mentors and to then develop policies and practices that will ensure a stable roster of available attorneys.

APPENDIX B

SIJCAJ PROJECT YEAR 2 WORK PLAN – TASK 4

4.1 – Achieving Bar Association Consensus for Legal Aid Procedural Upgrade

Subtasks:

Strengthening the Bar Association’s Capacity to Offer Legal Aid Representation

- *Assessment of Legal Aid Representation.* In consultation with the Bar Associations, the Project will engage an international short-term technical advisor to conduct an assessment of the Bar Associations’ approach and procedures for ensuring sufficient and quality legal aid representation. The assessment will evaluate current procedures and resources used by the bar associations to assign and monitor legal aid cases and propose reform strategies that will form the basis of follow-on project assistance in agreement with Bar Association leaders. The assessment will be provided to the Bar Associations in Beirut and Tripoli. (Apr - May 09).
- *Seminars on Proposed Changes to Legal Aid Administration.* After the above assessment, the Project’s Judicial Independence/Access Specialist, Joe Karam, will conduct one seminar for each bar association in Beirut and Tripoli to publicize proposed changes to legal aid administrative procedures. The seminars will be interactive in order to capture the wider views of bar members on reforming legal aid procedures and on strategies for improving legal aid representation. (Apr - Jun 09)
- *Workshops on Procedural Upgrade.* The Project, through its Judicial Independence/Access Specialist, will conduct four workshops with executive staff, legal aid committee members, and administrative staff of the bar associations to implement Project recommendations. With assistance from the international short-term technical assistance advisor, the workshops will result in a concrete action plan for implementation by bar leadership and administrative staff of new policies and procedures, including public outreach information in the form of bar newsletters to attorney and brochures for the public to be placed in courthouses. (Jun - Oct 09)
- *Study Tour.* Funds permitting, the Project will organize a study tour to the United States for bar association administrators and members of the respective Legal Aid Committees of the Beirut and Tripoli Bar Associations. The study tour will provide comparative knowledge on the legal aid process

in the United States, the bar association's role in supporting legal aid, and standards for ensuring quality representation. The study tour will be facilitated by NCSC Arlington. (Sep - Oct 09)

Impact:

The assessment and follow-on workshops, once implemented, will increase the efficiency of legal aid administration, reduce costs to the bar associations, and provide a means for measuring and upgrading the quality for services. The study tour will provide a vision for implementation of the assessment recommendations by demonstrating alternative administrative procedures for delivery of legal aid services in various jurisdictions in the US.

4.2 – Legal Aid Training and a Sustainable Training Program

Subtasks:

Framework for Sustainable Training Program

- *Complementary Assessment – Sustainable Legal Aid Training.* The assessment concerning legal aid representation described above will also embrace options for a sustainable training program for law students, lawyer interns and practicing lawyers. The assessment will target not only the bar associations, but also law schools. (Apr - May 09)

Legal Aid Training and Public Outreach

- *Tripoli Training and Second Annual Legal Aid Training in Beirut.* During Year 2, the Project will provide legal aid training sessions similar to the one it sponsored in Beirut in October 2008 and assist the Legal Aid Committees to hold training sessions yearly. These trainings will be linked to Section 4.1 goals and Project assistance to the Bar Association in developing sustainable training programs. (May - Oct 09)
- *Law Day (Local Attorneys/Judges).* Task 4 staff will organize a Law Day event at the Beirut and Tripoli courthouses in cooperation with the bar associations and the MoJ. Activities will target attorney trainees and the public at large and will include tours of courthouses, courtrooms and administrative offices, including the Project's Model Court. The Project will also assist the courts and bar associations to organize discussion groups in the Beirut and Tripoli courthouses to deliver information on legal aid and the general operation of courthouse activities. (Oct 09)
- *Information Kiosk (with Task 3).* The Project will commission the placement of an information kiosk in the Beirut and Tripoli courthouse that will inform citizens and attorneys of the location of offices and courtrooms,

and provide written and oral information on obtaining legal aid and paid legal services. Task 4 staff will form a joint working group of judges from these two courts and attorneys from the respective bar associations to produce two brochures: (1) the court's role and obligation in appointing legal counsel and (2) the citizen's right to legal counsel linked to the bar association's obligation to provide legal aid services. (Jun-Sep 09)

Impact:

The framework for a legal training program for the bar association will institutionalize a process for continuing legal education (standards and certification) for legal aid lawyers, especially young lawyers in need of training. The formal annual training sessions will serve to assure the competency and updating of attorneys who provide legal services. They will also serve as a publicity tool to promote volunteer attorney participation in Lebanon's legal aid programs. The Law Day and information kiosk activities will also educate members of the bar and the public at large as to the availability of legal aid and how the free legal assistance system works in Lebanon.

4.3 – Recruitment of Legal Aid Attorneys

Subtasks:

Raising Awareness for Legal Aid Representation and Services

- *Annual Awards Ceremony.* The Project will continue to support annual awards ceremonies to coincide with the beginning of the judicial year in October, in recognition of the volunteer services of Lebanese legal aid lawyers in Year 2. (Oct 09)
- *Recruitment and Promotional Programs at Law Schools.* The Project's Judicial Independence/Access Specialist will invite law students to participate in Project events relevant to Legal Aid including legal aid training sessions for lawyers, legal aid awards ceremonies, and Law Day activities. The project specialist will organize three informational seminars at the schools that will serve to educate law students about the merits of legal aid, how the Lebanese system works, and the importance of continuing education on the subject. He will be assisted by members of the bar association Legal Aid Committees as appropriate. (Sep - Oct 09)

Impact:

Annual events in recognition of volunteer services of attorneys and law students, as well as law school awareness programs, will continue to satisfy the demand for legal services.