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

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

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OVERVIEW

Highlight of Activities

- The President of the High Judicial Council (HJC), in conjunction with a consultant supported by the project, completed the first draft of the law on the independence of the judiciary. It includes dispositions to grant increased budgetary independence to the judiciary. The President of the Republic confirmed that the draft law will presented to Parliament for adoption. If passed, this legislation would significantly strengthen the independence of the judiciary in Lebanon.

- On July 14, 2010, Lebanese Minister of Justice Ibrahim Najjar and US Ambassador Michelle Sison inaugurated the fully renovated Judicial Training Institute (JTI) facility ($1.3 million renovation, including equipment purchases).

- Judge Steve Swanson provided a successful training session in Tripoli for 50 lawyers and Bar Association interns on the criminal legal aid representation protocols developed with the assistance of SIJCAJ.

- From July 17-24, 2010 five members of the Lebanese Judicial Inspection Unit (JIU) took part in a study tour to France. The JIU already is utilizing procedures and forms that were provided during the tour.

- The Alternative Dispute Resolution (ADR) assessment report was completed by the Lebanese Center for Policy Studies (LCPS), a local partner organization.

- The Beirut Bar Association and SIJCAJ completed the preparation of a public information campaign in police stations. Individuals that are arrested and detained in Lebanon are usually not aware of the existence of the Bar Association‘s legal aid services. An informational poster was designed. It will be distributed as soon as branding issues are resolved with the Bar.

- A judge, a member of the HJC, and two Ministry of Justice (MOJ) staff successfully completed the Independence of the Judiciary and Accountability Study Tour in the United States.

- SIJCAJ began the process of sharing modern court administration practices developed for the Beirut Enforcement Court with other courts in the country.

- The HJC President and a SIJCAJ consultant completed the Guide/Code of Ethics. It is the first document that consolidates applicable ethics rules contained in various laws into one document.

- NCSC submitted its Fiscal Year 4 (FY4) Work Plan to USAID for the period Oct 1 – Dec 9 2010, which is the estimated date of project close out.

1. TASK 1. JUDICIAL TRAINING INSTITUTE CAPACITY BUILDING (JTI)

The reporting period coincides with the annual judicial holidays, July 15 - September 15. Consequently, JTI leadership and staff were on vacations and a reduced number of activities were conducted.

Subtask 1.1 JTI Curriculum Development and Training of Judges

A) Curriculum Development:

Last Quarter, Judge (ret.) Maamari completed his analysis and recommendations and submitted his report to SIJCAJ. After reviewing the report, the CoP forwarded the document to the JTI's Curriculum Development Committee for its review and action. It is anticipated that the curriculum will be used to train this year's new judicial trainees. In the FY4 Work Plan, SIJCAJ resident staff will review and provide final comments on the Judge Maamari's assessment. These final comments will emphasize compliance with international best practices.

B) Judicial Training: The JTI training program for this year will begin in November.

C) JTI Study Trip: In Year 2, the project organized for the JTI leadership a study tour to the Council of Europe. For this year, it was planned that two judges would be sent for a month to the Council for intensive training on European standards. However, the Council informed the project that they could not organize a month-long training, but only one-week training. President Mansour and SIJCAJ are of the opinion that this modification would not be sufficient to achieve the original goal, and thus will not pursue this follow-up training to the study tour experience.

Subtask 1.2 Develop and Implement a Continuing In-Service Training Program for Judicial Personnel

This subtask is closely associated with Subtask 1.1, *supra.* While the JTI does not train sitting judges, it does train those candidates that passed the JTI competition exams, i.e., the judge trainees. In collaboration with JTI, SIJCAJ assisted JTI in organizing a number of in-service training for sitting judges. Over the previous quarters, JTI authorities explained to SIJCAJ that they had no intention of organizing additional trainings. According to them, there are so many donors focusing on trainings that the JTI is completely overwhelmed. SICAJ staff met with the JTI President to explore new training avenues. The President requested project support to organize training on judicial ethics (Nov 10). SIJCAJ has supported the development of a draft code of ethics, which, to date, has not yet been disseminated. It is foreseen under the FY4 that SIJCAJ will provide training on judicial code of ethics. This training for judges and judge trainees will be carried in the new JTI facility.

A) Train the Trainers Course: Nothing to report.

Subtask 1.3 Developing JTI Library Capacity

Activity completed during Quarter 10 (April-June, 10).

Subtask 1.4 Improving JTI Capacity to Recruit/Select Judicial Candidates

A) Training Assistance to HJC: The re-fresher psychological testing training was completed by Dr. Karam in the 9th Quarter.

Subtask 1.5 Windows of Opportunity

Nothing to report.

2. TASK 2. ENHANCE JUDICIAL INDEPENDENCE

During the reporting period, two significant draft documents were completed with project support -- the draft legislation on the Independence of the Judiciary and the draft guide/code of ethics. These are major steps towards strengthening rule of law in Lebanon. Along those lines, the project also organized two important study tours – (1) Independence and Accountability of the Judiciary (US) and (@) Strengthening the Judicial Inspection Unit (France).

Subtask 2.1 Fostering Institutional Consensus on Judicial Independence Reform

A) Technical Assistance for Drafting New Legislation: This quarter SIJCAJ consultant Judge Chamseddine and HJC President Ghanem completed draft legislation on the Law on the Judiciary. The draft law proposed several key innovations to advance the independence of the judiciary.

The draft law consists of three chapters. The first chapter relates to the establishment of a Supreme Board for the judiciary and determines its powers and internal procedures. The second chapter concerns disciplinary procedures, and the third chapter refers to general provisions.

The draft law is characterized by the following:

- It emphasizes that the judiciary is independent especially with regard to the executive and legislative branches (article 2).
- It establishes a new body "the Supreme Board for the Judiciary" (article 3).
- The Supreme Board is in charge of protecting the independence of the judiciary, supervising and managing the judiciary, and ensuring communication with the executive and legislative branches (article 3, 6).
- The Supreme Board will prepare the budget for the courts.
- The Supreme Board is composed of fourteen members, including two non-members of the judiciary -- i.e., Bar Presidents (article 4).
- It creates a technical office to assist the Board in organizational issues.
- It gives the Board the power to create its own rules of procedure.
- It grants the Board financial and administrative independence in order to relieve the judiciary from the pressure of the executive branch. It stipulates that a section of the MOJ's budget shall be devoted to the Board in order to fulfill its needs and those of all courts (article 20).
- It entrusts the HJC with judicial appointments and transfers.
- It provides new disciplinary procedures (article 24).

By granting an important level of budgetary independence to the judiciary and by reinforcing disciplinary procedures, the draft law, if adopted by Parliament, would significantly strengthen the independence of the judiciary in Lebanon. The President of the Republic recently confirmed that the draft law will presented to Parliament for adoption.

B) Study Tour - Independence of the Judiciary: From September 11 to 17 a judge, a member of the HJC, and two MOJ staff travelled to the US for a study tour on the Independence and Accountability of the Judiciary (see Agenda of the Study Tour - Annex 1). All participants were selected by Minister Najjar. The objective was to provide Lebanese key stakeholders the opportunity to see how the United States has developed its system of separation of powers among the three branches of government and within that framework how the judiciary balances judicial independence with accountability. Topics for the study trip included, among others: 1) selection, promotion, and appointment of judges, 2) preparation and management of budget for courts, 3) judicial ethics and discipline, and 4) the judiciary's role in disseminating information to the public, engaging the media, and responding to attacks on judicial independence in a public forum.

Participants visited the following institutions:

1) Administrative Office of the US Courts. The participants had a briefing about the way in which the U.S. Federal Courts are administered, both at the national level through the Judicial Conference of the United States and at the circuit and district court levels through the Circuit Councils, the individual federal court executives and clerks. The presenters discussed the relationship between the three branches of government while focusing on the independence of the judiciary.

2) The Federal Judicial Center (FJC): The Federal Judicial Center (FJC) is the education and research agency for the federal courts. The duties of the Center and its Board fall into a few broad categories: conducting and promoting orientation and continuing education and training for federal judges, court employees, and others; developing recommendations about the operation and study of the federal courts; and conducting and promoting research on federal judicial procedures, court operations, and history.

The delegation also held educational meetings at the U.S. Supreme Court, Georgetown University Law Center, the District of Columbia's Commission on Judicial Disabilities and Tenure, Justice at State (NGO), and the District of Columbia Bar Association. Judge Greg Mize conducted a training session linked to his assessment on judicial ethics in Lebanon, and Tim Hughes conducted a training session on judicial misconduct and discipline using a case study.

Subtask 2.2 Improved Foundations for Judicial Ethics Reform

Lack of ethics greatly undermines public trust in the judiciary. Most judges in Lebanon are not well aware of their responsibilities in that regard. Rules are scattered in various international treaties ratified by Lebanon, and different national legislations. SIJCAJ has been supporting the HJC in drafting a guide/code that addresses all ethics rules relevant to the Lebanese judiciary. A consolidation of ethics rules in one document is seen as a first step in ensuring greater awareness of judicial standards and providing a foundation for accountability of judges through a professional disciplinary process.

A) Technical Expertise: At the request of the President of the HJC, NCSC engaged a local consultant to review the draft code of ethics prepared by Judge Gregory Mize in FY 09. Judge Gabriel Syriani in conjunction with the President of the HJC completed a Guide/Code of Ethics (see Annex 2). Judge Syriani and HJC President determined that it was not necessary to prepare new legislation (code) on ethics. In their view, all key ethics provisions are already contained in various internal laws (i.e. the Lebanese Constitution, the Law on Judicial Justice, the State Council Statute, the Law on the Organization of the Audit Court, and the Codes of Civil and Criminal Procedure) and international treaties ratified by Lebanon. In lieu of a new code, they consolidated the ethics rules contained in various laws into a code format with practical explanation and comments for judges.

The 28-page Guide consists of two sections. The first section lays out all applicable legal ethics provisions (local and international), while the second section provides substantive explanations on ethics rules. The second section also describes the interrelation of ethics rules with legal provisions and customs.

The overarching goal of the guide is to increase judges‘ respect for ethics rules. Judges currently have a vague notion of ethics rules; in some cases they are simply not aware of key dispositions. SIJCAJ has translated the original Arabic version of the Code into English. The Arabic version will be published and distributed to judges and other stakeholders. A training session will be conducted by President Ghanem and Mr. Syriani at the Judicial Training Institute (JTI) in Nov 2010.

B) Judicial Code of Ethics Trainings/Roundtables: As mentioned above this activity will be conducted by President Ghanem Mr. Syriani at the Judicial Training Institute (JTI) in Nov 2010.

Subtask 2.3 Strengthening the Judicial Disciplinary Process

SIJCAJ continues to support the newly appointed inspectors. The JIU provides audit services to improve court efficiency and investigates allegations of judicial misconduct. Inspectors lack training and equipment. In the past quarter, the project provided lT equipment, assisted in improving the disciplinary process, and provided the necessary support for the design of a training curriculum.

A)Technical Assistance to Improve the Disciplinary Process: SIJCAJ‘s JIU training expert, Maurice Khawam (see Section 2.3(B)) included in his training curriculum a series of recommendations aimed at improving the disciplinary process, including revisions of Decree 150 of 1983 (Law on the Judiciary), which governs disciplinary procedures. These recommendations were officially given to Minister Najjar who expressed satisfaction and an intention to implement some of the recommendations. During the reporting period, SIJCAJ consultant A. Chammseddine and HJC President G. Ghanem completed the review of the draft law on the independence of the judiciary (see Section 2.1). One of the three chapters of this legislation focuses on disciplinary process. It provides new disciplinary procedures (see, e.g., article 24). In addition to these efforts to improve the disciplinary process, the guide/code of ethics prepared by SIJCAJ consultant Judge Syriani‘s and HJC President G. Ghanem also strengthen discipline by establishing clear standards of ethics.

B) Training for JIU: In the previous quarter, SIJCAJ consultant Maurice Khawam, former president of the public disciplinary council and former Prosecutor General within the JIU, prepared a training curriculum The consultant also proposed a series of legislatives modifications to improve the role of the JIU, including privileges and immunities. The proposed modifications will be discussed with the inspectors during a training session in Nov 2010. This session, to be supported by SIJCAJ, will be done in conjunction with a member of the French Inspection Unit, which hosted the JIU on a study trip related to judicial inspection and investigation practices (see Section 2.3(C)).

C) Study Tour for the Members of the JIU: From July 17-24, 2010 five members of the JIU traveled to Paris, France for a study tour (see Agenda of the study Tour – Annex 3). This activity was planned in close coordination with the French Inspection Unit heads. Over the weeklong tour, participants attended presentations by members of the French Unit and representatives of the French Ministry of Justice. Presentations focused mainly on investigations techniques, discipline, and ethics. The study tour was important and enabled participants to examine some of JIU's institutional weaknesses: the Lebanese inspectors lack training; the JIU itself is not properly structured or equipped; there is no set of procedures for investigations; most members of the unit have been recently appointed, and therefore have no experience, etc. The JIU participants were exposed to best practices and are already implementing new practices. For instance, the French Unit provided them with forms to be used for investigations. The Unit has decided to adapt them to local context, and use them.

D) Material Assistance to the Unit: SIJCAJ purchased and delivered six laptops for the JIU official use.

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

A) Develop MOJ Public Information and Communications Capacity: As agreed with the MOJ, the head of the MOJ's pubic relation department took part in professional growth training abroad (study tour/Independence of the judiciary). Such assistance is foreseen in the work plan. One theme of the study tour related to judicial independence and accountability was the capacity of the judiciary to provide the public with information on the judiciary and to respond to public interest and NGOs (e.g., Justice at Stake).

B) National Campaign: MOJ Najjar confirmed his interest for a national public campaign on judicial reform (i.e., judicial independence/accountability, ethics and discipline, strategic planning, etc.). Despite SIJCAJ efforts to meet with the Minister to organize this activity, he has not followed up and identified specific assistance need to support a national campaign

C) Guide Books: The guide books for the *Cour De Cassation* and for the HJC developed with SIJCAJ support were distributed last quarter (3,000 copies).

Subtask 2.5 Improved Budget Process within Judiciary

A) Judicial Budget Assessment and Recommendations: The assessment was completed in November 09 and distributed to all key stakeholders.

B) Draft Legislation Advisory Support: The judicial budget assessment served as a resource for retired judge Afif Chamseddine and President G. Ghanem in preparation of the draft legislation on the judiciary (see section 2.1(A)). It is unlikely that draft legislation on the judiciary will be passed before the end of the year. Thus, timing will impact all possible follow-up activities, such as additional technical support to the budget process and/or training.

Subtask 2.6 Windows of Opportunity

Nothing to report.

3. TASK 3. COURT ADMINISTRATION REFORM

During the reporting period, the completion of project tasks was influenced by the annual slow down in the work of the courts and justice institutions during the month of Ramadan and the lengthy judicial holiday, which followed, and did not in fact come to an end until the end of September. The new judicial year, scheduled to start in October, will be impacted by the fact that the executive order assigning and transferring judges had not been signed by the President of the Republic as of September 30.

Nevertheless, during the quarter, SIJCAJ continued to provide on-site mentoring to judges of the Beirut Enforcement (Model) Court on improving court administration practices. Also, the MOJ agreed to reconstitute the Executive Committee and identified the Baabda Enforcement Court as a second court counterpart.

3.1 Policy Development for Court Administrative Reform

A. Reactivation of Executive Committee. At the end of the quarter, SIJCAJ held a meeting with MOJ Najjar to discuss the revival of the Executive Committee. Minister Najjar agreed to reconstitute the Committee, subject to the inclusion of all the first presidents of the courts of Lebanon and the Director General of the MOJ, Mr. Omar Natour. Unfortunately, it is clear from the meetings with partners and stakeholders that, while the reactivation of the Executive Committee is an important aspect to court administration reform, it is not the most pressing priority at this time. Gathering first presidents from all of the Enforcement Courts in Lebanon may not be logistically feasible. Nonetheless, in FY4, SIJCAJ will support the convening of regular meetings and use this forum to introduce basic principles on court administration to other courts. Judges from the Beirut Enforcement (Model) Court will also participate in future workshops to share ideas and best practices.

B. Enforcement Courts in Mount Lebanon. Late in the quarter, SIJCAJ met with the MOJ to discuss rolling out the case management system adopted by the Beirut Enforcement Court to other enforcement courts in the country. The Minister identified the Baabda Enforcement Court, one of the courts in the governorate of Mount Lebanon, as the next court to benefit from case management reforms. The Minister prepared a letter to that effect to the President of the Mount Lebanon Courts, SIJCAJ met with the President, and the President selected one judge from the Baabda Enforcement Court and a second judge from the Jeideh Enforcement Court, another court in the Mount Lebanon governorate, to work with the project. SIJCAJ met with both judges and toured their respective courts. In the next quarter, SIJCAJ will coordinate a

training program for the enforcement court judges in the Mount Lebanon governorate to be presented by two of the judges of the Beirut Enforcement Court.

C. Office of Contentious Issues. At the end of the quarter, SIJCAJ entered into a construction services contract for the provision of new shelving and an entrance counter, as well as painting and other minor renovations for the file room of the Ministry of Justice Office of Contentious Issues. To assist the Office in the relocating and categorizing of files as part of the renovation, SIJCAJ prepared services contracts for two interns to work with the Office for six weeks. In addition, SIJCAJ, following meetings with the judge designated by the President of the Office to oversee the project and the Chief Clerk, prepared and delivered to the judge and the President a draft of protocols for the use of case type subcategories and separate shelving modules to improve data collection and reporting, archiving, file retrieval and overall case management. SIJCAJ will monitor the execution of the renovation contract, and follow up with the intern services contracts and the proposed protocols during the next quarter.

3.2 Court Administration Improvement

(1) Change Management

SIJCAC continued to work with the Beirut Enforcement (Model) Court through the change management committee process. At the meeting of the committee on July 9, 2010, the judges of the Court gave final approval to the case categorization and numbering system designed to provide for modern and improved case management, data collection, and filing. The system involves the use of five case categories: (1) Execution cases, excluding social security and personal status cases; (2) Social Security cases; (3) Personal Status cases; (4) Provisional Seizure cases; and (5) Opposition law suit cases. The system also involves a change in the method of identifying and indexing case files from the use of names to the use of numbers. The new system, coupled with the modern mobile shelving provided as part of the construction of the Court premises, will provide for simple and expeditious case file storage and retrieval, and improve case management by permitting the entry of case category and status data and the production of statistical reports. The case management system should become the model for case management in the other enforcement courts in Lebanon.

(2) Court Premises Improvement

Also on July 9, 2010, SIJCAJ organized a meeting with one of the judges of the Model Court, a representative of Betabat, the contractor for the construction of the Court, and SIJCAJ‘s construction coordinator to review and take steps to resolve problems identified in the construction. The meeting led to the identification of a list of repairs to be made by Betabat. During the balance of the quarter, Betabat undertook some of the repairs, but additional problems with the construction were identified. The process of resolving problems in the construction of the Court facility is ongoing and will continue during the next quarter.

(3) Records Management

A. Beirut Enforcement (Model) Court. To implement the backlog reduction plan adopted by the Model Court, SIJCAJ entered into a contract for the provision of 21,500 file folders specially designed to accommodate the new case categorization and numbering system and the new shelving. The supplier delivered 10,750 to the Court, and law school interns recruited by the Court began using them in the transfer of the case files. Subsequently, serious file security problems were identified by the Court in the use of the interns, the Court was forced to discontinue using the interns, and the process of transferring the case files was suspended. As a result, only approximately 10% of the purchased file folders have been used. At the same time, the Court determined that the purchased file folders were of uneven quality and therefore not completely acceptable for use in the Court, Accordingly, SIJCAJ formally cancelled the contract with the supplier, and the balance of the 10, 750 file folders to be supplied under the contract were not delivered or paid for. With technical assistance from SIJCAJ, the Court worked with a new file folder supplier to develop two prototypes for consideration by the Court for use in the implementation of its new case categorization, numbering, and filing system, both for new cases and for the backlog of existing files. As the quarter came to an end, the Court had not selected between the two prototypes. This critical decision point will be pursued in the next quarter. SIJCAJ had considered purchasing 10,750 of the new prototype file folders from the new supplier, the undelivered balance under the original contract, at a projected cost of $32,250, but based upon the fact that the Court had used only a small percentage of the first batch of file folders and upon a budget analysis for SIJCAJ prepared by the National Center for State Courts, SIJCAJ determined that it could not proceed with that purchase, and advised the President of the Beirut Courts accordingly.

B. Office of Contentious Issues. In meetings with the Chief Clerk of the Office of Contentious Issues, SIJCAJ toured the file rooms and viewed the case register books. Cases are presently filed in file folders and recorded in registry books in accordance with the following four categories: 1) Personal Status; 2) Civil; 3) Administration; and 4) Other. The ―Other" category involves, almost exclusively, the receipt from the execution courts around the country of writs, and very brief documentation, involving real estate transactions. The Office then determines if the real estate writs involve any unit of the government, and if so, copies are sent to the Finance Ministry and the Organization of Shelter and Habitat for a possible response. These writs and other papers are maintained in expandable-files, and not separate file folders. For the other three categories, file folders, in a few different colors, are provided by the Ministry of Justice. Cases either originate in the Office of Contentious Issues or come from other courts. As a case is received, it is given a unique number, in sequence from the first day of the year of receipt, in one of the above four categories; that and other information is written on the file folder; and the information, including the number, identities of the parties, and a brief description of the case, is entered in the registry book for the relevant category. An effort was made in the past to associate colors of file folders with case categories, but that effort did not fully succeed due to the unavailability of certain colors when needed. File folders are placed on the shelves sequentially by number based on years, with cases from one category mainly in one file room, and cases from other categories in other rooms. The difficulty is finding the right room and shelf. Once the shelf for the correct year

is located, the particular file folder is easily retrievable based on its sequential number. When case files are needed by a judge or lawyer from the Office, the name of the judge or lawyer and the dates of receipt and return of the file are recorded in registry books in the office of the President of the Office. In summary, the Office has a sensible and efficient system for categorizing, filing, and recording pertinent information about its cases. Lacking is the organization of shelving in a manner to allow for the separate location and easy identification of the files in the four case categories, and the years within each category. Also lacking is the identification of appropriate subcategories to permit the electronic entry of information necessary to properly analyze the work of the Office and permit the production of necessary and relevant statistical reports. The implementation of a system of sub-categorization would not have a negative impact upon the system in place for filing cases on the shelves, but would have a positive impact on the information maintained in the registry books and later recorded electronically. As part of the subcontractor‘s renovations in the main file room, new shelving will be installed. The room is of sufficient size to permit the location of the files in the four categories in separate locations in the room, beginning with the year 2006 and going forward into the future for several years.

Based upon this information, at the end of the quarter, SIJCAJ prepared and submitted to the President of the Office the following proposed case management protocols. (1) Upon the completion of the renovations, under the supervision of the Chief Clerk, the subcontractor will move the files for the years beginning with the year 2006 to the file room to be shelved in separate locations, by category, and in sequential order by assigned number for each year, thereby permitting easy filing and retrieval. The categories and years will be identified by placards on the shelves. Files for earlier years will be archived in a separate location. (2) For data entry and reporting purposes, the above four case type categories, with the exception of the ―Other" category, which would not benefit from sub-categorization, will be divided into the following subcategories:

Personal Status:
- Birth and death registration (P-1)
- Marriage and divorce registration and correction of marital status (P-2)
- Nationality creation, establishment, and registration (P-3)
- Name change or correction (P-4)
- Other (P-5)

Civil:
- Civil cases (C-1)
- Commercial cases (C-2)
- Financial cases (C-3)
- Penal cases (C-4)
- Rent disputes – state as lessee (C-5)
- Other (C-6)

Administration:
- Suits by the state (A-1)
- Suits against the state by private parties (A-2)
- Suits against the state by local units of government (A-3)

Other (A-4)

(3) If the OCI decides to implement a record-keeping system based on the above or other subcategories, several steps would be involved. First, a description of the subcategories should be prepared in sufficient detail to permit easy identification by the clerks of the proper subcategory. Second, the clerks should be trained on the use of this identification protocol and the way to enter the coded information on the file folder and in the registry book. Third, on a specified date following the training, the clerks would begin entering the coded information as each new case is received. Fourth, while the cases from 2006 to the present are located in temporary shelving, pending the renovation of the file room by the subcontractor, the interns would, beginning with the year 2010 and working backward through year 2006, review each file and assign the file the appropriate subcategory code, and record the subcategory code on the face of the file and in a log prepared specifically for this purpose. A separate log would be prepared for each of the three categories, and contain the following information: year, case number, and subcategory code. Use of the logs would avoid the necessity of entering the subcategory codes in the registry books, and causing interference with the work of the clerks. Once an appropriate computer program is developed, the information from the logs could be readily entered into the data base.

(4) Court Administration Workshop

A. Court Administration Information Technology Workshop for Model Court and Other Judgment Execution Court Staff. This activity will be carried out in the next quarter now that the MOJ has identified the Baabda Enforcement Court as a project counterpart.

(5) Court Administration Study Tour. Nothing to report.

(6) Court Staff Development and Management

A. Job Descriptions. Nothing to report.

B. Management Training. Nothing to report.

C. Court Information Services. Nothing to report.

D. Information Kiosk. SIJCAJ purchased and delivered to the Beirut Enforcement Court an information display rack to be placed in the public service lobby of the Court. The rack will be used to make available to lawyers and the public information about the Court and legal forms used in the Court.

7. Addressing Backlog of Case Files

As mentioned in previous reports, one of the biggest challenges facing the Lebanese judiciary is the large number of pending cases. In Quarter 8, SIJCAJ completed an assessment on court backlog based on case types and timelines of the Model Court. In December 2009, Court Administration Expert, Peter Kiefer, created a backlog reduction plan for the Model Court.

During most of Quarter 9, judges on the change management committee worked to recruit law school students to assist with the counting, categorizing and capturing of data of the backlogged cases. Twenty students were recruited and worked during part of the last reporting period and part of this reporting period. Unfortunately, serious file security problems were identified by the Court in the use of the interns, and the Court was forced to suspend their work. SIJCAJ will work with the change management committee to develop ways of using the Court's clerks to work on backlog reduction as a routine part of their duties.

3.3 Automation of Procurements Office

Nothing to report.

Subtask Activities

Improving the Procurement Process for the Courts

A. Equipment Purchase and Training. Nothing to report.

B. Linkage to Model Court. Nothing to report.

C. Meetings with Model Court and Procurement Office Staff. Nothing to report.

3.4 Alternative Dispute Resolution

As foreseen under Section 3.4 of the FY3 Work Plan, SIJCAJ is assisting the judiciary in developing a strategy and building consensus for ADR mechanisms with the assistance of Mr. Oussama Safa, who is affiliated with the Lebanese Center for Policy Studies (LCPS), a SIJCAJ partner, and who has considerable experience in ADR models in the Middle East. At the beginning of Quarter 10, USAID approved the SOW for Mr. Safa. SIJCAJ received his final report (see Annex 4), entitled, –ADR In Lebanon," at the end of this reporting period. The final report conforms to the SOW, and provides a thorough assessment of the forms of ADR presently in use in Lebanon, and the potential for expanding the use of ADR in the future, specifically taking into account the customs and traditions of the Lebanese legal profession and judiciary. The report identifies gaps in existing law, analyzes legislation that has been proposed, and makes specific recommendations for the promotion of mediation and arbitration in Lebanon.

3.5 Windows of Opportunity

Nothing to report.

4. TASK 4. IMPROVE ACCESS TO JUSTICE

Subtask 4.1 Bar Association Consensus for Legal Aid Procedural Reform

A) Study Trip: Conducted in November 09

B) Follow-on Workshops - Legal Aid Assessment: Completed in Quarter 9.

Subtask 4.2 Improving Bar Association Capacity to Provide Legal Aid Services

A) Needs Assessment: Prior to this reporting period, SIJCAJ approached the Presidents of the Beirut and Tripoli Bar Associations with the proposal that SIJCAJ, using a local expert, undertake an assessment of the need for legal aid in Lebanon. This needs assessment was recommended by the legal aid expert in his final report, ―Legal Aid In Lebanon," submitted in September 2009. The President of the Beirut Bar Association agreed to the proposal, but the President of the Tripoli Bar Association declined the proposal. Pursuant to an approved Scope of Work, SIJCAJ retained a local expert, Oussama Safa, to prepare a needs-based assessment (see Annex 5). In his final report, Mr. Safa analyzes poverty and income statistics broken down by the six governorates; summarizes the population of Lebanon's 22 overcrowded penal institutions, comparing pretrial detainees (68.4%) to convicted prisoners (31.6%); includes results of a survey of prisoners at the Roumieh Prison, revealing that only a small percentage of those surveyed were advised of their right to a lawyer at the police station during the investigation; presents useful information about a number of NGOs interested in access to justice issues; and sets forth findings and recommendations. The report will be submitted to the President of the Beirut Bar Association.

Public **Information** Campaign: One of the findings of the legal aid expert in his September 2009 report was that generally, the public was not aware of the right to legal aid. That finding prompted SIJCAJ to propose to the Presidents of the Beirut and Tripoli Bar Associations a limited public outreach campaign. The President of the Beirut Bar Association agreed to sponsor a limited public outreach campaign using a professionally designed public information poster, but the President of the Tripoli Bar Association concluded that a public outreach campaign was not necessary or appropriate in the governorate of North Lebanon. At the end of the quarter, the President of the Beirut Bar Association approved a final version of the poster. It states in Arabic, French, and English that ―whether you are rich or poor you have a right to be represented by a lawyer." Coinciding, incidentally, with the important finding in the legal aid needs assessment that suspects are not being advised of their right to a lawyer at the police station, following USAID technical branding and marking approval, copies of the poster will be printed and delivered to the Beirut Bar Association for distribution to police stations, courthouses, and Bar Association offices.

B) Administrative and Technology Assistance: Nothing to report.

Workshops on Procedural Upgrades: In Lebanon, legal assistance to the poor is provided by the legal aid programs of the Beirut and Tripoli Bar Associations. In the legal aid expert's September 2009 report, he recommended that the Bar Associations adopt case management protocols to improve the quality of the legal representation provided. In the third quarter of FY 3, the expert returned, pursuant to an approved Scope of Work, and worked with both Bar Associations in the preparation of four protocols for use in their legal aid programs. Two of the protocols, the Legal Aid Program Orientation and the Case File Memorandum, are designed to assist the lawyers in representing legal aid clients by setting forth in detail the commitments involved in the representation and by prompting the preservation in the case file of notes and analyses designed to improve the quality of the representation. The third protocol, the Legal

Aid Client Evaluation Form, is designed to lead to programmatic improvements by routinely obtaining feedback from the clients being represented. The fourth protocol, the Report on Case Disposition, is designed to provide data on cases that can be useful in analyzing the types of cases being taken and the results of the representation, as well to facilitate the supervisor‘s review of the lawyer‘s representation. The Tripoli Bar Association adopted the protocols, and the President of the Beirut Bar Association has taken them under consideration. Late in the quarter, SIJCAJ presented a workshop and training program on the protocols for 50 lawyers from the Tripoli Bar Association, as well as the President of the Association, who actually chaired the workshop. In the next quarter, SIJCAJ will propose to the President of the Beirut Bar Association the presentation of similar training programs for the Association‘s lawyers and trainee lawyers.

Subtask 4.3 Legal Aid Training and Sustainable Training Program

Framework for Sustainable Training Program

A) Training Needs Assessment and Legal Aid Curriculum: This activity was completed in third quarter of FY 3 with the assistance of the international legal aid expert and local consultant Aida Abou Eid.

Legal Aid Training and Public Outreach

A) Training of Trainers: Programmatic: Following a decision of the Tripoli Bar Association to re-establish its collaboration with SIJCAJ, SIJCAJ conducted a workshop on the legal aid protocols for the Tripoli Bar Association. Attending were 50 lawyers and the President of the Association.

B) Legal Aid Certificate Ceremony: Nothing to report.

C) Law Day (Local Attorneys/Judges): MOJ Najjar confirmed his interest for a Law Day. Despite SIJCAJ efforts to meet with the Minister to organize this activity, he has not followed-up and identified specific needs for assistance.

D) Kiosk: See the 10th Quarterly Report. Nothing further to report.

Subtask 4.4 Recruitment of Legal Aid Attorneys

The annual awards ceremony is a useful event to recruit and recognize legal aid attorneys. These ceremonies are not organized every year. SIJCAJ cannot confirm yet if Bar Associations will conduct ceremonies in 2010. SIJCAJ is prepared to support the event and is in contact with the Bar Associations on possible collaboration.

Subtask 4.5 Windows of opportunity

Nothing to report.

TASK 5 SUB-GRANTS TO ENHANCE THE RULE OF LAW

Subtask 5.1 Awarding Grants

Activity completed in previous quarters.

TASK 6. JUDICIAL SECTOR STRATEGIC PLANNING

Subtask 6.1 Strategic Planning Initiative

MOJ Najjar has not yet organized the next strategic planning session on the issue of judicial independence. While the retreats have been useful in assisting the judiciary to identify priorities, the MOJ and HJC should make continued efforts to convene these planning sessions with the aim of developing a broad strategy for the judiciary. SIJCAJ will follow-up with the MOJ/HJC in the next quarter, although SIJCAJ's capacity to support the strategic planning initiative will cease in Dec 2010, when the project closes.

TASK 7. FACILITY ASSESSMENT and A-E DESIGN/BID MATERIAL MODEL COURT AND JTI

Subtask 7.1 Assessment, Design, and Bid Documentation for Model Court and JTI

Activity completed during Quarter 8 (Oct-Dec, 10).

TASK 8. REFURBISHMENT OF MODEL COURT AND JUDICIAL TRAINING INSTITUTE

Subtask 8.1 Model Court

Activity completed in Quarter 9 (Jan-Mar, 10)

Subtask 8.2 Judicial Training Institute

Construction: In the previous quarter Betabat completed the construction work at JTI. The opening ceremony was held on July 14th in the presence of US Ambassador Sison and Minster Najjar. It received wide media coverage.

9. PERFORMANCE INDICATORS FOR THIS QUARTER

Progress towards achieving indicators during this quarter is set out in the Performance Monitoring Plan. See attachment (Annex 6).

10. CHANGES IN KEY COUNTERPARTS

Nothing special to report.

11. DIFFICULTIES ENCOUNTERED

During the reporting period, the completion of project tasks was affected by the annual slow down in the work of the courts and justice institutions during the month of Ramadan and the lengthy judicial holiday, which followed. SIJCAJ's progress in programming with the counterparts slowed during Aug and Sep 2010. Nevertheless, SIJCAJ managed to complete several important activities, including draft of the law on independence of the judiciary, study tour for Judicial Inspection Unit (France), study tour on the independence and accountability of the judiciary (USA), Guide/Code of Ethics, trainings for lawyers, completion of ADR report, and rolling out the case management system adopted by the Beirut Enforcement Court to other enforcement courts in the country (Mount Lebanon).

12. ACTIVITIES ANTICIPATED IN NEXT QUARTER

With the project set to close in Dec 2010, SIJCAJ has submitted a FY4 Work Plan that concentrates on providing limited technical assistance and preparing local counterparts to sustain reform gains after the project is completed. In the next quarter, NCSC will focus on providing assistance with respect to the below matters, while focusing on closing out project operations. NCSC will submit a demobilization plan to USAID that maps out the steps NCSC will take to close out the project.

- *SIJCAJ Review of the JTI Curriculum Assessment.*
- *Disseminate Court Performance Measurements.*
- *Training on Ethics.*
- *Follow-on training on Best Practices by French Inspector.*
- *Complete material and technical assistance at the Office of Contentious Issues.*
- *Provide support to Baabda Enforcement Court.*
- *Training on Protocols for Beirut Bar Association Legal Aid Commission.*
- *Training on Protocols for Trainee Lawyers at Institute of Beirut Bar Association.*
- *Retreat.*
- *Close Project.*

ATTACHMENT 1

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

AGENDA

JUDICIAL INDEPENDENCE
STUDY TOUR
LEBANON

SEPTEMBER 11-18, 2010

The National Center for State Courts
2425 Wilson Boulevard
Suite 350
Arlington, VA 22201

Contact:
Kala M. Finn, Esq., Director
International Visitors Education Program
Phone: (703) 841-6902
Fax: (703) 841-0206
E-Mail: kfinn@ncsc.org

NATIONAL CENTER FOR STATE COURTS
INTERNATIONAL PROGRAMS DIVISION

AGENDA
STUDY TOUR
JUDICIAL INDEPENDENCE
LEBANESE JUDICIAL OFFICIALS
September 11-18, 2010

DAY 1 – SATURDAY, September 11

Fly from Beirut to Paris
Flight# AF 563H

Fly from Paris to Washington, D.C.
Flight# DL 8496A

1255 **Arrive at Washington, D.C. Dulles International Airport**

The delegation will be met by a Programmatic Escort from NCSC International.

Check into Washington, D.C. Hotel

Embassy Suites Hotel at the Chevy Chase Pavilion
4300 Military Road, N.W.
Washington, D.C. 20015
Phone: 202-362-9300
Fax: 202-686-3405

DAY 2 – SUNDAY, September 12

Casual **Breakfast, Lunch and Dinner on your own**

Free Time In Washington, D.C.

DAY 3 – MONDAY, September 13

Business Casual

0745 **Meet in the Hotel Lobby for Transportation to the National Center for State Courts**

National Center for State Courts
2425 Wilson Blvd., Suite 350
Arlington, VA 22201
703-841-6901 (Edina Orth)

0900 **Meet Program Interpreters:**
1) Adnane Ettayebi 2) Muna Abdi, and briefing 1150
about wireless interpretation equipment

NCSC Orientation covering the following items:
Kala M. Finn, Esq., Director, International Visitors Education Program,

- Program agenda and logistics
- Explanation of health insurance coverage
- Distribution of health insurance cards
- Cultural orientation
- Tax forms
- Overview of NCSC
- Overview of U.S. state and federal court systems
- Action Planning Overview

Mission and Structure of the National Center for State Courts
Ms. Finn

The National Center for State Courts (NCSC) has been on the cutting edge of judicial reform in the United States for more than 35 years. It is recognized as a leading authority on administration of justice issues by members of the U.S. judiciary and U.S. government agencies, as well as justice professionals abroad.

During this presentation, Ms. Finn will briefly discuss the organization of NCSC and its mission to provide education, research, information sharing, and technical assistance to the U.S. state courts and justice systems around the world. The objective of this segment is to introduce the participants to an organization established for and by the courts that assists courts in realizing more efficient and effective delivery of justice.

Overview of the U.S. State & Federal Court System, Methods of Selecting Judges and Funding the Courts

Ms. Finn

An understanding of the structure of the U.S. state and federal court system is critical background to understanding the procedures and methodologies used by the U.S. courts. Ms. Finn will make a presentation outlining the structure and function of the various courts that make up the U.S. system, their jurisdictions, and relationships to each other and to the Federal system. Her presentation will also highlight the diversity that exists within the various state courts, the manner in which judges are selected, and the various methods of funding the courts. Particular emphasis will be placed on explaining the structure of courts in Virginia and the District of Columbia.

1200 **Overview of SIJCAJ Project/Judicial Independence/Accountability**
1245 Mr. Timothy Hughes, SIJCAJ Project Manager/Senior Technical Advisor

Mr. Hughes will provide the delegation with a briefing about the USAID/NCSC Rule of Law Project in Lebanon. He will discuss the Project components and the goals of the Project in the coming months. He will also discuss judicial independence and accountability with comparative examples.

1245 **Overview of Judicial Independence**
1330 Judge Gregory Mize

Judge Mize was appointed by President George H.W. Bush to the trial bench in 1990. In that capacity, he presided over hundreds of civil and criminal jury trials in the Superior Court of the District of Columbia. In 2002, he took on senior judge status. Since 2009, Judge Mize has worked as a judicial ethics, codification and judicial discipline expert in the USAID Project to Strengthen the Independence of the Judiciary and Citizen Access to Justice in Lebanon. Judge Mize will provide insight in judicial independence in the United States and his experience in working on judicial ethics in Lebanon.

1330 **Walk to Me Jana Restaurant**

1400 **Opening Group Luncheon**
Me Jana Restaurant
2300 Wilson Blvd.
Arlington, VA

Tel: 703-456-4440

1600 **Return to Hotel**

DAY 4 – TUESDAY, September 14

Business

Breakfast on your own

0900 **Meet in the Hotel Lobby and travel to the District of Columbia Bar Association**

1015 to 1130 **Meeting at the District of Columbia Bar Association: Legal Ethics and Discipline**

1101 K St. NW Suite 200
Washington, DC 20005
Ms. Mary Tang, Staff Attorney, Executive Office
Telephone: 202-737-4700, ext. 3405
Email: MTang@dcbar.org

The District of Columbia Bar is the second largest unified bar association in the United States. The D.C. Bar‘s core functions, supported by member dues, are the registration of lawyers, operation of a lawyer disciplinary system, maintenance of a Client‘s Security Fund, and certain other administrative operations. The Bar is governed by a Board of Governors composed of 20 lawyers selected by the active membership and three members of the public appointed by the Bar itself as nonvoting members.

The meeting will address topics such as: professional responsibility; the law of lawyering in the District of Columbia; conflict of interest statutes and regulations; training; and discipline for lawyers practicing law in the District of Columbia.

1130 to 1245 **Depart the District of Columbia Bar Association for the Old Post Office**

1245 **Depart the Old Post Office for the Lebanese Ambassador’s Residence**

1330 **Group Luncheon with Ambassador Chedid**

Embassy of Lebanon
2560 28th Street, NW
Washington, DC 20008
Ms Christine de Leon
202-939-6320

Return to Hotel

DAY 5 – WEDNESDAY, September 15

Business **Breakfast on your own**

0830 **Meet in the Hotel Lobby and travel to the U.S. Supreme Court**

1000 to 1200 **Visit the Supreme Court**
U.S. Supreme Court
One First Street, S.E.
Washington, DC 20543
Contact: Erin Huckle, Curator‘s Office
Phone: 202-479-3493

Guided Tour of the U.S. Supreme Court

Visit the Gift Shop

1200 **Lunch**

1400 **Depart for Georgetown Law School**

1500 to 1630 **Professional Responsibility and the U.S. Legal Education**
Georgetown University Law Center

600 New Jersey Avenue N.W.
Washington, DC 20001
Professor Michael Frisch, Adjunct Professor of Law and Ethics Counsel
Phone: 202-662-9926
Email: frischm@law.georgetown.edu

Georgetown University Law Center began in 1870 and was the first law school established in the United States by a Jesuit institution of higher learning. Professor Frisch is Ethics Counsel to the Law Center. He previously served as senior assistant bar counsel to the District of Columbia Court of Appeals. Professor Frisch will provide an overview of the ethics programs offered to law students.

1630 **Return to the Hotel**

Dinner on your own

DAY 6 – THURSDAY, September 16

Business **Breakfast on your own**

0800 **Meet in the Hotel Lobby and travel to the Administrative Office of the U.S. Courts**

0930 to 1230 **Meetings at the Administrative Office of the U.S. Courts**

Administrative Office of the U.S. Courts
One Columbus Circle, NE
Washington, D.C. 20002-8003
Debbie L Galloway
Article III Judges Division
International Judicial Relations Committee
Phone: 202-502-1166

The participants will have a briefing about the way in which the U.S. Federal Courts are administered, both at the national level through the Judicial Conference of the United States and at the circuit and district court levels through the Circuit Councils, the individual Federal court executives and clerks. The presenters will discuss the relationship between the three branches of government while focusing on the independence of the judiciary.

1230 to 1400 **Lunch at Union Station**

1430 to 1530 **Meetings at the Federal Judicial Center**
Federal Judicial Center
One Columbus Circle NE
Washington, DC 20002
Jessica R. Heller
Program Assistant, International Judicial Relations
Phone: 202- 502-4158
Email: jheller@fjc.gov

The Federal Judicial Center (FJC) is the education and research agency for the federal courts. Congress created the FJC in 1967 to promote improvements in judicial administration in the courts of the United States. The many specific statutory duties of the Center and its Board fall into a few broad categories: conducting and promoting orientation and continuing education and training for federal judges, court employees, and others; developing recommendations about the operation and study of the federal courts; and conducting and promoting research on federal judicial procedures, court operations, and history.

1600 **Closing the Day and Return to Hotel**

Dinner on your own

DAY 7 - FRIDAY, September 17

Business *Breakfast on your own*

0830 **Meet in the Hotel Lobby and Depart for Justice at Stake**

0930 to 1015 **Meetings at Justice at Stake**
717 D Street, NW, Suite 203
Washington, DC 20004
Mr. Bart Berdenburg
Tel: 202-588-9436

Justice at Stake (JAS) is a nonpartisan campaign with more than 50 national partners, working to keep state and federal courts fair and impartial. Justice at Stake Campaign partners educate the public and work for reforms to keep politics and special interests out of the courtroom—and to protect what Chief Justice Rehnquist called one of the "crown jewels" of our democracy.

JAS is currently funded by grants from the Carnegie Corporation of New York, the Joyce Foundation, the Herbert Block Foundation, the Moriah Fund and the Open Society Institute.
In states across America, Justice at Stake partners work to:
Reduce Special Interest Pressure

- Advocacy in Supreme Court and other proceedings
- Monitoring Special Interest Pressure on the Courts
- Public Financing of Judicial Elections
- Merit-Based Selection of Judges
- Better Disclosure of Election Expenditures

Protect Courts and Judges from Partisan Attacks

- Developing New Messages and Coalitions to Defend Courts
- Rapid Response to Intimidation and Impeachment Threats
- Educating Political Leaders and Americans on the Unique Role of Our Courts
- Protecting Court Budgets From Political Attacks

Inform Americans about Their Rights and Courts

- Public Education
- Voter Guides
- Judicial Performance Evaluation programs
- Building a Network of Judges to Speak Out

Promote Diversity on the Bench

- Work With Allies to Educate the Public and Nominating Panels
- Work With Potential Judges to Broaden the Pool of Interested and Able Candidates

1100 **Depart Justice at Stake**

1130 **Working Lunch at Commission on Judicial Disabilities and Tenure**
1330 1728 Mass. Ave, N.W.

Washington, DC
Mr. Hank Schuelke
Phone: 202-861-0600
Email: bbradenburg@justiceatstake.org

Judge Gregory E. Mize (Ret.)

Judicial Fellow, National Center for State Courts

The District of Columbia Commission on Judicial Disabilities (CJDT) was created by the District of Columbia Court Reorganization Act of July 29, 1970. The Commission's jurisdiction extends to all active and senior judges of the District of Columbia Courts, and embraces four areas: a judge's conduct warranting disciplinary action; involuntary retirement of a judge for reasons of health; evaluation of a judge who seeks reappointment upon the expiration of his or her term; and evaluation of a judge who retires and wishes to continue judicial service as a senior judge.

Judge Gregory E. Mize will join the delegation for this meeting. Judge Mize is currently a Judicial Fellow at the National Center for State Courts. Judge Mize was appointed to the trial bench by President George H.W. Bush in 1990. In that capacity, he presided over hundreds of civil and criminal jury trials in the Superior Court of the District of Columbia. In 2002, he took on senior judge status. From 1997 to 1998, Judge Mize co-chaired the D.C. Jury Project, resulting in issuance of "Juries for the Year 2000 and Beyond" containing proposals to improve jury practices in the Superior Court and the U.S. District Court for the District of Columbia.

1500 **Tour of the U.S. Capitol**

Return to Hotel

DAY 11 – SATURDAY, September 18

Breakfast on your own

Free Time in Washington, D.C.

1730 **Check out of Hotel and Load Luggage on the Minibus**

Travel to Dulles International Airport

2200 **Return to Lebanon**
Flight # DL 8331A

Attachment 2

Guide to judicial duties and ethics
(Legal texts and adopted rules)

Prepared by: Judge Gabriel Seryani (former member of the Constitutional Council, former member of the High Judicial Council)

With the contribution and under the supervision of:

Judge Dr. Ghaleb Ghanem
First President of the Cassation Court
President of the High Judicial Council
Former president of the State Council

Preamble

1. Democratic societies are increasingly tending towards the promotion of justice, the consolidation of equality, the protection of human rights and the elaboration of the rule of law concept. These issues are only guaranteed by giving to judicial matter equal attention that takes into consideration, in a modern way, the diffusion of the culture of judicial independence and the provision of material and moral means that enable judges to commit to the duties imposed in the law and immunize their performance with standard ethical rules.

2. In the midst of the quest for judicial duties and ethical rules, goals in various countries might converge; however, the ways to regulate and convey them to judicial groups differ. Some consider that it is necessary to draw upon the legal texts established in various legislations to achieve the desired goal. Others believe that they should be constrained to one unifying law while some see that going back to relevant separate texts is essential, provided that they are complemented by a document that sheds the light on the legal aspect or that bridges the surrounding gaps especially that the legal rule tends by nature to what is concise, compact and general.

3. When reviewing the Lebanese reality, it appears that various legislative texts directly or indirectly addressed the issue, like for instance the Lebanese constitution, the Law on Judicial Justice, the State Council Statute, the Law on the Organization of the Audit Court, and the Codes of Civil and Criminal Procedure, as well as other applicable texts. It also became manifest that judges in Lebanon have agreed on a document called ―the essential rules for judicial ethics", which indicates that the third method (drawing upon the legal texts and complementing them by a charter or document) was adopted.

4. It is worth noting in this regard that the overlap between the legal texts and ethical rules is inevitable. The first contain hints that remind of ethics. The second comprise principles recalling what was mentioned in the texts. Yet, the aspect dominating the texts is the focus on judges‘ duties, whereas focusing on judges‘ ethics clearly prevails in the document. In this context, it becomes logical to say that one is not possible without the other.

5. In the light of this reality, it is clear that regrouping duties and ethics in one legal text is immensely difficult for two main reasons: the first is the nature of ethics that makes it impossible to assemble and capture them in a legislative text, the second is the spread of duties- related provisions in various laws which means that these provisions will have to lose some of their cohesion if detached from some texts.

6. Seeing all that, we have chosen to opt for the simplest and most useful road: publishing a guide to both texts and rules, without any need to a new codification. The usefulness of this guide will be, without any doubt, evident since it assembles what is dispersed and contributes in unifying the view of the topic, as a prelude to unifying the applied behavioral method apart from which no view has any value.

7. The guide is divided into two sections: the first one indicates the legal texts and the second the ethical rules. It might be necessary in some cases to establish the totality of the text while in other cases an indication of the text is enough. The aim is not to assemble but to indicate and remind. As for the essential rules for judicial ethics, there is no need to examine general abstract and intellectual aspects, the goal being to focus on what is similar to a rule in its restrictive meaning. Summarizing the rules will then happen on the basis of this goal. In both cases, texts and rules might need to be clarified through some helpful comments.

8. If the methodology originally requires a minimum of balance between the sizes of the sections, it is inevitable in this guide to upset the balance because of the abundance of the texts that form the topic of the first section, and because we have resorted to screening and itemization in the second section whose topic was limited to one text, that is the document of essential rules for judicial ethics.

9. It is imperative in the context of this preamble to thank the United States Agency for International Development which contributed in launching the idea calling for attention to the moral ethical aspect in the judicial work and in launching the guide itself.
   The guide would have not seen the light without the contribution of senior jurists, notably Judge Gabriel Seryani and Judge Gregory E. Mize. Should also be mentioned the contribution of the author in these introductory lines and his general supervision of the work in order to achieve it with the maximum desired benefit.

10. The guide can be considered addressed to all judges in Lebanon, i.e. judicial, administrative and financial magistrates, since it relies on laws that concern all judicial bodies. The essential rules for judicial ethics also have a comprehensive orientation.

Judge Dr. Ghaleb Ghanem
First President of the Cassation Court
President of the High Judicial Council

First section: Legal texts

This section includes two main rubrics. The first one examines the texts that are of interest to the guide in their locations, as for the second, it organizes the main principles and outcomes they present. It is certainly inevitable with the second chapter to include some explanation or analysis where necessary.

We decided to finish establishing the texts before any separate comment concerning any of them out of fear of redundancy and to make sure the research is ramified while maintaining and a coherent comprehensive view of the topic.

Thus, this section comprises:
Chapter One: examination of the texts in their locations
Chapter Two: organization of the principles and outcomes presented by the texts.

Chapter One: Examination of the texts in their locations

I- The Lebanese Constitution

The Constitution contains one article related to the subject that is article 20:
"The judiciary is in charge of courts of different degrees and jurisdictions within a regulation stipulated by the law and by virtue of which judges and litigants have their necessary guarantees preserved.

As for the conditions and limits of judicial guarantee, it is determined by the law. Magistrates perform their work in an independent manner. Decisions and judgments are rendered by all the courts and implemented in the name of the Lebanese people."

The independence of the judiciary has two complementary sides: the independence of the judicial authority, which is an obligation of the State, and the independence of the judge, which is an obligation of the judicial system and of each judge.

The talk about guarantees given to judges aims at achieving a perfect justice, while guarantees given to litigants are mainly the respect by the judge of his/her duties and ethics. The established constitutional text is the right entrance to understanding duties and ethics.

It is worth mentioning in this context that we will not tackle the situation of the Constitutional Council considering the particularity of its nature and mission. Some articles in the relevant law and its rules of procedure are nonetheless related to duties and ethics in general.

II- The Law on Judicial Justice

The Law on Judicial Justice contains many texts pertaining to the subject. We consider it useful to establish the following:

Article 3: The High Judicial Council members take the following oath before the President of the Republic and the Minister of Justice:
"I swear in the name of God that I will perform my duties in the High Judicial Council with probity and loyalty, honor the confidentiality of deliberations, and see to preserve the dignity and independence of the judiciary."

Article 4: The High Judicial Council shall see to preserve the dignity and independence of the judiciary and the proper performance of courts business, and shall take the necessary decisions in this regard.

Article 5: In addition to the decisions taken by the High Judicial Council… it is entrusted with the following competences:
… d- Study the file of any judge and ask the Judicial Inspection Unit to conduct the necessary investigations and take adequate decisions and measures…

Article 19: The first President of the Appellate Court shall supervise the proper functioning of the proceedings in his departments and the normal functioning of operations.

If necessary, the ―President of the High Judicial Council" shall review the difficulties the First President is facing and shall be informed by him of the important and urgent cases.

Article 46: Before being assigned and taking any responsibilities, judges take the following oath:
―I swear in the name of God that I will devote myself to my job and be neutral and fair to people, preserve their rights, honor the confidentiality of deliberations, and always be an honorable and honest judge."

Article 47: Judicial office should not be combined with public service or with other careers and/or any other paid job…

Article 56: …The President of the Judicial Training Institute can give remarks to trainees without risking any disciplinary prosecution.

Article 65: Trainee judges take, as soon as appointed and before they start their work, the following oath before the Beirut Court of Appeal:
"I swear, in the name of God, that I will preserve the confidentiality of deliberations and that I will be an honest and honorable trainee judge."

Article 70: … The High Judicial Council can declare the incompetence of a trainee judge at the end of each year based on the suggestion of the Institute‘s board.
Article 74: Trainee judges are subject to the disciplinary procedures especially perceived for sitting judges. Furthermore, they are subject to courts regulations that apply to the judges in case of criminal prosecutions.

Article 83: Any disruption of job duties and any action that offend the honor, dignity and propriety is an error that requires a disciplinary action.
The disruption of job duties includes failure to appear in court hearings, delaying the adjudication of cases, not fixing a date for the hearing of a ruling at the end of a deliberation, discriminating between the parties and not respecting the secrecy of deliberations.

Article 84: Aside from any disciplinary action, the President of the High Judicial Council can, if need be, give remarks to any judicial judge except for the judges of the inspection unit, the disciplinary board or the court that he presides. The Prosecutor General at the Court of Cassation, the First President at the Court of Appeal and the Prosecutor General at the Court of

Appeal can give a remark to their subordinate judges with the exception of the judges of the First President‘s chamber.

Article 89: Disciplinary penalties that can be sentenced are:

1- Reprimand

2- Blame

3- Delaying the promotion for no more than 2 years

4- Demotion

5- Suspension from work without a salary for one year maximum

6- Dismissal

7- Removal and deprivation of end of service indemnity and pension.

In the case of demotion, the judge reserves his years of service for a promotion and in the case of removal with deprivation of end of service indemnity and retirement pension, his retirement deductions shall be given back to him.

Article 90: It is for the Minister of Justice to suspend from work the judge referred to the Disciplinary board, upon proposal of the Judicial Inspection Unit.
The suspended judge shall receive half of his salary and indemnities.

Article 93: The judges, who have not been, during their twenty years of practice, trialed for any disciplinary conduct, except a warning penalty, and have the privileges of a judge, shall be accepted in honorary posts.
Judges shall be accepted in honorary posts by a decree approved upon proposal of the Minister of Justice and after the approval of the High Judicial Council.

Article 95: Apart from all disciplinary prosecutions, it is up to the High Judicial Council to judge at any time the incompetence of a sitting judge by a justified decision adopted by the majority of eight of its members and upon proposal of the Judicial Inspection Unit and after hearing the concerned judge.

The decisions of the High Judicial Council, regarding the competence of the candidate in taking part in the examination as a trainee judge or sitting judge adopted by virtue of the provisions of this legislative decree, are not subject by any means to any appeal including the request of annulment for power abuse.

Article 98: The Judicial Inspection Unit shall:

1- Monitor the proper functioning of the judiciary, the activity of judges, registry staff and other personnel.

2- Draw the authorities‘ attention to what is perceived as failures and present proposals to repair any disruption.

3- Have the disciplinary powers stipulated by the law over judges and the personnel of registry and central departments at the Ministry of Justice.

4- Draw the attention of those concerned by the inspection to the failures in their work.

5- Address remarks when necessary to judges and employees.

6- Suggest to the High Judicial Council the appropriate measure to be taken as for any judge.

Article 106 – The Council of the Inspection Unit shall refer judges and employees of the second category and above subject to the Unit‘s supervision, to the Disciplinary Board if this action is justified in the investigations. The Council can suggest to the Minister of Justice to suspend from work the judge referred to the Disciplinary Board.

Article 132: Employees regulations shall apply to the judges in all matters that do not contravene the provisions of this decree.

III-The State Council Statute

It is worth examining a few articles that are related to the purpose of the guide:

Article 10: The State Council Bureau examines the situation of an administrative judge two years after his assignment. It can decide to dismiss him if it found that he doesn‘t meet the qualifications required by his work.

Article 12: When appointed, administrative judges and the rest of the State Council judges take the following oath before the State Council Bureau:

"I swear in the name of God that I will perform my duties with probity and loyalty, honor the confidentiality of deliberations, and always be an honorable and honest judge."

Article 19: …
2- The State Council Bureau sees to the proper functioning, status, independence and performance of the administrative justice, and takes the appropriate decisions in this regard.

4- The State Council Bureau shall exercise the same powers that the High Judicial Council has over judges by virtue of the Law on Judicial Justice as long as they do not contravene this law.

10- The President and members of the Council Bureau are committed to preserve the secrecy of deliberations. Revealing the secrecy of the deliberations in the Bureau is similar to disclosing the secrecy of the deliberations in trials.

11- The President and members of the State Council Bureau take an oath while dressed in the judicial robe before the President of the Republic and the Minister of Justice. The oath is the following:

"I swear in the name of God that I will perform my duties in the State Council Bureau with probity and loyalty, honor the confidentiality of deliberations, and see to preserve the dignity and independence of the judiciary."

Article 22: Any disruption of the job duties and any act that prejudices the honor, dignity or discipline represent a behavioral error punishable before the Disciplinary Board mentioned in article 24.

Article 23: The Minister of Justice may ask the Council‘s President to investigate any issue he thinks might require disciplinary prosecution.
The investigation is conducted upon the request of the Council‘s President by one member who is, according to the priority rule, equal or superior to the member complained about. The investigation‘s result is submitted to the Minister of Justice via the State Council President.
The Minister of Justice refers the member complained about to the Disciplinary Board if he finds in the investigation what justifies this referral.

Article 27: Disciplinary penalties that can be sentenced are:

1- Blame
2- Suspension from work without a salary for one year maximum
3- Delaying the promotion for no more than 2 years
4- Demotion
5- Reduction in category
6- Dismissal
7- Removal and deprivation of end of service indemnity and pension.

In the case of demotion or reduction in category, the member reserves his years of service for a promotion and in the case of removal with deprivation of end of service indemnity and retirement pension, his retirement deductions shall be given back to him.

Article 28: For the criminal prosecution of State Council members, the followed procedures are the same as those adopted for the prosecution of members of the Cassation Court. However, if the member is a first or second rank associate justice, the procedures followed in the prosecution of Appellate Court members are applied.
The special provisions mentioned in the next article are taken into consideration in all circumstances.

Article 29: State Council members are only prosecuted for crimes and misdemeanors emanating from their job after consulting the Council Bureau and upon the request of the Minister of Justice. If the general interest requires their immediate arrest, the Minister of Justice can allow it after consulting the President of the State Council.
In case of prosecution of State Council members for crimes and misdemeanors not emanating from their job, they can only be arrested after approval of the Minister of Justice and after consulting the President of the State Council.

Article 30: Each conviction or acquittal decision concerning a crime or misdemeanor for one of the State Council members is notified through the Minister of Justice to the Disciplinary Board in order for it to determine the disciplinary consequences of the acts that lead to criminal prosecution, unless dismissal from work had been decided ipso jure.

Article 31: The State Council member referred to trial for a crime or misdemeanor emanating from the job is suspended from work according to a decision of the Minister of Justice after consulting the President of the Council until a final decision is rendered.
The Minister of Justice may suspend from work:

1. The member prosecuted for a crime or misdemeanor not emanating from his job after consulting the President of the Council
2. The member referred to the Disciplinary Board.

Article 32: State Council members, who have not been, during their twenty years of practice, trialed for any disciplinary conduct, shall be accepted in honorary posts at the end of their service, they then have the privileges mentioned in this law...

Article 43: The provisions of the Code of Civil Procedure concerning transfer of lawsuits for a well-founded suspicion that a fair trial will not be given and challenge of judges, are implemented in the State Council. Nevertheless, the writ of certiorari (transfer request) for a well-founded suspicion that a fair trial will not be given shall be presented to the Office of Contentious Issues.

Article 47: The President of the State Council is in charge of… administrative work and he conducts judicial inspection…

IV-The Law on the organization of the Audit Court

The Law on the organization of the Audit Court comprises very few articles that are worth mentioning in the context of the study.

Article 4:
… Before assuming their functions, the President and the Prosecutor General of the Audit Court take the following oath before the President of the Republic and in the presence of the Prime Minister:
"I swear in the name of God that I will devote myself to my job in the Court of Audit and be neutral and fair to people, preserve their rights, honor the confidentiality of deliberations, and always be an honorable and honest judge."

Article 7: Before assuming their functions, judges and assistants of the Prosecutor General take the oath stipulated in article 4 before the Audit Court Council.

Article 10: The President, Prosecutor General, judges, and Prosecutor General assistant shall only be transferred to another administration after approval of the Court Council, and shall be only dismissed upon a decision of the Disciplinary Board.

Article 12: For the Audit Court, the same powers as those of the High Judicial Council are exercised by a council composed of the President of the Court, the Prosecutor General at the Court, and the three judges who have the highest rank in the Court.

A judge is referred to the Disciplinary Board following a decision of the mentioned Board upon suggestion of the Court President. The President and Prosecutor General at the Court are referred to the Board following a decision of the Board itself, of the government commissioner at the State Council and the Vice-President of the State Council, upon suggestion of the competent Minister.

Article 13: Except for the provisions stipulated in this legislative decree, judges of the Audit Court are subject to the statute of judges and all other relevant texts. As for controllers and administrative employees, they are subject to the civil servants' statute.

V-The Law on honorary posts in the judiciary

This law, despite the few articles it contains, is considered as strictly linked to the topic. The relevant articles are:

Article 1: …The High Judicial Council, State Council Bureau or Audit Court Bureau estimate if a judge whose service has ended ipso jure or upon his request is entitled to be accepted in an honorary post. Nonetheless, an honorary post is only granted to a judge who has not been, during the last fifteen years of practice, sanctioned for a disciplinary conduct except for reprimand and blame…

Article 3: A judge in an honorary post has the privileges given by virtue of the laws and regulations to sitting judges according to his/her degree and category in this post…

Article 5: A judge in an honorary post shall not practice the legal profession.
Any judge who registers at the Bar Association is ipso jure removed from the honorary post.

Article 6: A judge in an honorary post is subject to the obligation of reservation. He can be referred to a special disciplinary board upon a decision of the Minister of Justice or a decision of the Judicial Inspection Unit in case he commits an act that offends the honor and dignity of the judiciary.

Article 7: … Admonition or removal of a judge from the honorary post is imposed. In case of removal penalty, the judge loses all the privileges he enjoyed…

VI-Law of Obligations and Contracts

In the Law of Obligations and Contracts, only one article is linked to the study, that is:

Article 380: Judges, lawyers, judicial clerks and their assistants shall not personally or via someone else purchase the litigious rights that enter into the scope of jurisdiction of the courts their work is related to.

VII- Code of Civil Procedure

We will fully establish some articles in the Code of Civil procedure while mentioning others in a more general manner.

Article 1: ―The judicial power is independent from other powers in terms of investigation and judgment in lawsuits. Its independence is not limited by any restriction not stipulated in the Constitution."

Article 4: A judge cannot, at the risk of being considered as miscarrying justice:

1. Abstain from adjudication giving as a pretext the ambiguity or absence of the text.
2. Delay the judgment for no valid reason.

In case of ambiguity of the text, the judge shall interpret it in the meaning that produces an effect compatible with the purpose of the text and consistent with other texts.

In case of absence of the text, the judge shall rely on general principles, customs and equity.

Article 116: A lawsuit is transferred from one court to another of the same degree:
…
3- If there is reason that justifies the suspicion that a fair trial will not be given.

Provisions pertaining to challenge and withdrawal:

Articles 120 to 130 of the Code have handled the provisions pertaining to the challenge or withdrawal of a judge.
Legal aspects (Reasons justifying challenge or withdrawal) and ethical aspects (previous opinion about the lawsuit, hostility or amiability between the judge and one of the parties, the judge‘s offer to step down from the case…)

Article 364: The judge sees to the good conduct of the trial…

Article 375: Conciliation between the parties is considered within the judge‘s mission.

Article 460: The President of the Court or any delegated judge of the court, as well as the single judge, may call on the two parties to his chambers and try to conciliate them…

The State's responsibility for the work of judges

Articles 741 to 761 of the Code deal with the issue of suing the State for the responsibility resulting from the work of judicial judges. It is appropriate in this context to establish the full text for some articles:

Article 741: The State can be sued for the responsibility resulting from the work of a judge whether he/she belongs to the presidency, investigation or public prosecution in all the cases where suing is permitted by a special text and in the following cases:

1. Miscarriage of justice
2. Fraud or deceit
3. Bribery
4. A serious error that should not be committed by a judge who assumes judicial duties in a normal manner.

Article 753: If it is decided that the challenge request based on miscarriage of justice is valid, the defendant is sentenced to pay damages and the original case is referred to another judge to look in it.

Article 754: If it is decided that the case based on fraud, deceit, bribery or serious error is valid, the judgments or the complaint procedure is annulled and damages are paid to the plaintiff.

Article 758: In case the State was sentenced to pay damages, it is entitled to appeal before the general assembly of the Cassation Court…

VIII-Penal Code

The Penal Code dedicated the first chapter (–In crimes disruptive of job duties”) of Section 3 (–In crimes against the public administration”) to organizing provisions related to bribery,

embezzlement and malpractice, violation of freedom, abuse of power, and disruption of job duties.
Some of these provisions are evidently related to judges.

IX-Code of Criminal Procedure

The Code of Criminal Procedure defined in articles 344 to 354 the followed procedures in crimes committed by judges, was it emanating from their work or not. It entrusts the Cassation Court with this power and details the various cases according to the function entrusted the judge. Article 352 states that ―any person affected by a criminal act attributed to a judge may ask for damages according to the prosecution."

X- Statute of employees

Article 132 of the Law on Judicial Justice states that ―employees' regulations shall apply to the judges in all matters that do not contravene the provisions of this legislative decree."

The Statute of employees comprises two articles that are directly linked to the issue of duties. Below are the texts:

Article 14: An employee in general shall:

1. Seek in his work to preserve the public interest and see to implement the applicable laws and regulations without any abuse, contravention or negligence.
2. Obey the orders and instructions of his direct chief unless these orders and instructions clearly and explicitly violate the law… In this case, the employee shall draw his chief's attention in writing to the contravention and is not compelled to obey these orders and instructions unless confirmed in writing by his head. He may send copies of the correspondence to the central inspection administration.
3. Personally shoulder the responsibility for the orders and directives he gives his subordinates.
4. Complete the transactions of stakeholders quickly, accurately and devotedly within the limits of his competence.
5. In case of affiliation with parties, bodies, councils, or associations of a political nature or of a confessional nature of political aspect, entirely abandon any mission or any responsibility in these parties, bodies, councils, or associations.

Article 15: An employee must not perform any act prohibited by the applicable laws and regulations, especially:

1. Give or publish, without a written permission from the chief of his administration, speeches, articles, statements or publications in any topic.
2. Adhere to organizations or trade unions.
3. Strike work or incite others to go on strike.
4. Practice any commercial or industrial profession or any other paid craft, except for teaching in a higher education institution or a high school within conditions specified by a decree adopted in the Council of Ministers, and except for other cases explicitly stipulated in special laws.
   Be a member in the administrative board of an anonymous or a limited liability company.

Have a direct or indirect material interest in an institution subject to his control or to the control of the administration he belongs to.

5. Assume in addition to his job, electoral, parliamentarian or municipal functions as stated in the laws specific to these functions.
6. Perform or be related to any paid job that offends the dignity of his function.
7. Seek or accept a certain recommendation, solicit or accept directly or indirectly, because of his post, gifts, tips or grants of any kind.
8. Reveal official information that came to his knowledge while performing his job even after service unless authorized in writing by his ministry.
9. Organize or participate in the organization of collective job-related petitions for whatever reasons and motives.

It seemed necessary to dissociate the Law on Judicial Justice and the Statute of employees in order to preserve the independence of the judiciary and the separation of powers, provided that the first law contains the appropriate texts that fill the gaps. Nevertheless, it is unavoidable, in light of the applicable legislations, not to refer to the Statute of employees on condition to exclude from it (and from articles 14 and 15) any provision mentioned in the Law on Judicial Justice and any provision that is not in line with the nature of judicial office (like subordination to the direct chief and obeying all orders and instructions…)

Chapter Two: Organization of the principles and outcomes presented by the texts

These texts include various principles and outcomes that will be divided into six items as follows:

1. Constitutive principles
2. Ethical principles
3. Duties
4. Aspects of incompatibility and abstention
5. Negative outcomes
6. Positive outcomes

I-Constitutive principles

The original constitutive principle is the independence of the judiciary which was first mentioned in article 20 of the Constitution, then was echoed in the oath of the High Judicial Council members and their powers, in the oath of the State Council members and their powers and in the Code of Civil Procedure. It should also be mentioned that the independence of a judge is a right and a duty at the same time.

Among the constitutive principles is the preservation of the proper functioning of the judiciary and the adequate performance of courts business as stated in articles 4, 19 and 98 of the Law on Judicial Justice and in article 19 of the State Council Statute.

Also among these principles is the dignity of the judiciary that should be protected by the higher judicial bodies from any harm (the oath of the High Judicial Council members and

their powers, the oath of the State Council members and their powers, article 6 of the Law on honorary posts).

Can also be mentioned the principle of justice (the section on judicial justice, the section on Audit Court members, article 4 of the Code of Civil Procedure: reliance on general principles and equity in case of absence of the text).

II-Ethical principles

In the aforementioned laws, the light was shed on principles that are closely related to the conduct and ethics of judges.

Can be cited in this regard honesty and honor (the section on judicial justice, the examples of disciplinary error in article 84 of the statute of judicial judges, article 42 of the State Council Statute, the section on administrative judges, the section on Audit Court members and judges, the section on trainee judges).

Another principle is propriety and personal dignity, as stated in article 83 of the Law on Judicial Justice: any action that offend the propriety or dignity (as in personal dignity), in article 22 of the State Council Statute and in article 6 of the Law on honorary posts.

Loyalty, impartiality and probity are also part of these principles (the oath of judicial judges, the oath of administrative judges, the oath of the State Council Bureau members, the oath of the Audit Court Bureau members, the oath of the Audit Court judges, the provisions pertaining to challenge and withdrawal…)

Can also be mentioned neutrality (provisions pertaining to challenge and withdrawal, and transfer of the case for a well-founded suspicion that a fair trial will not be given), and preservation of the confidentiality of deliberations (which is indeed a legal and ethical obligation at the same time): the judicial oath of all categories and levels, disciplinary punishable errors: article 83 of the law on judicial justice.

III-Duties

Article 83 of the Law on Judicial Justice tackles the disruption of job duties and indicates that it includes failure to appear in court hearings, delaying the adjudication of cases, not fixing a date for the hearing of a ruling at the end of a deliberation, discriminating between the parties and not respecting the secrecy of deliberations. It is noted that discrimination between parties (absence of neutrality) and revelation of the secrecy of deliberations have, in addition to the job-related dimension, an ethical one.

Article 22 of the State Council Statute mentions disruption of job duties without giving any specific examples.

In any case, what is stated in article 83 of the Law on Judicial Justice represents only examples; disruption of job duties may encompass many other acts.

Among the main judicial duties what is shown in article 4 of the Code of Civil procedure:
A judge cannot abstain from adjudication giving as a pretext the ambiguity or absence of the text, and shall render judgments in a timely manner unless prevented by a valid reason.

A judge should also spread and activate the culture of conciliation when possible as suggested by articles 375 and 460 of the Code of Civil Procedure.

IV-Aspects of incompatibility and abstention

Among the aspects of incompatibility what is stipulated in article 47 of the Law on Judicial Justice concerning how judicial office cannot be combined with any paid profession or job except for teaching in universities and institutions of higher education. Incompatibility is also manifested in the fact that a judge in an honorary post shall not practice the legal profession at the risk of being removed from the post.

As for aspects of abstention, we can mention article 15 of the Statute of employees which states that it is prohibited to engage in politics, to issue publications, to adhere to organizations or trade unions, to strike, and other actions, provided that it is excluded from the Law on Judicial Justice and in line with the nature of judicial office.

Article 380 of the Law of Obligations and Contracts (the only article in this law related to the topic) also represents an aspect of abstention.

Moreover, the Penal Code (article 351 and following articles) comprises provisions that prohibit employees and judges from seeking benefits for themselves through illegal acts or else, they will be subject to the penalties mentioned in the law.

V-Negative outcomes

A judicial conduct unfavorable to legal provisions and ethical rules negatively affects a judge‘s functional, personal or material status. That is what is meant by negative outcomes.

Negative outcomes range from remarks and warnings to suspension from work or incompetence. We should also not forget the ―reputation” that can push a judge to the climax or make him/her get to rock bottom because of exaggerated offensive behavior even if he/she was not prosecuted or sanctioned.

The aforementioned legal provisions and rules include many negative outcomes.

- Among these outcomes the remarks that can be addressed by the President of the High Judicial Council to judicial judges, as well as by other judicial presidents each one within his competence (article 84 of the law on judicial justice). This resembles to what is mentioned in article 98 of the same law with regard to the power given to the Judicial Inspection Unit through drawing attention or warning. Furthermore, the State Council and Audit Court Statutes refer to the Law on Judicial Justice concerning this issue. Article 47 of the State Council Statute has entrusted the President of the Council with conducting judicial inspection, which means that he possesses the same powers as the Judicial Inspection Unit with respect to the issue in question.

- Another negative outcome is the disciplinary prosecution implicitly indicated in paragraph (d) of article 5 of the Law on Judicial Justice, considering that the High Judicial Council has the powers to study the file of any judge and ask the Judicial Inspection Unit to conduct the necessary investigations and take adequate decisions and measures.

Article 84 and the subsequent articles of the same law deal with disciplinary prosecution from the viewpoint of disruption of job duties and actions that offend honor, dignity and propriety and from the viewpoint of penalties ranging from reprimand to dismissal or removal.

Article 98 of the Law on Judicial Justice details the powers of the Judicial Inspection Unit including the disciplinary power, and the power to suggest to the High Judicial Council the appropriate measure to be taken as for any judge.

The State Council Statute and the Law on Judicial Justice list the same reasons for disciplinary prosecution. Penalties range from reprimand to dismissal or removal (article 22 and 27 of the Statute).

Article 12 of the Audit Court Statute refers to the Law on Judicial Justice concerning this matter with some particularity however with regard to referral to the Disciplinary Board.

Article 74 of the Law on Judicial Justice states that trainee judges are subject to the disciplinary procedures especially perceived for sitting judges.

As for the Law on honorary posts, it stipulates that it is possible to impose the penalty of admonition (a penalty only mentioned in this field), or the penalty of removal from the honorary post.

- One negative outcome is also criminal prosecution which can be categorized into two axes: the first is what is mentioned in the Penal Code concerning the crimes disruptive of job duties and the second is what the Code of Criminal Procedure stipulates concerning the followed prosecution procedures for crimes committed by judges, was it emanating from their work or not. It is inappropriate to detail these provisions that should be examined in their specific locations.

Articles 28, 29 and 30 of the State Council Statute determine the issue of criminal prosecution by referring to the applicable legal provisions in this regard and adding some particularities.

- Negative outcomes also include suspension from work of a judicial judge upon suggestion of the Judicial Inspection Unit council in case he/she was referred to the Disciplinary Board (article 90 of the law on judicial justice), and suspension from work of an administrative judge following a decision of the Minister of Justice in case he/she was referred to the Disciplinary Board or he/she was prosecuted for a crime or misdemeanor not emanating from the judicial office (article 31 of the law on judicial justice).

- Is relevant as well sentencing a judge to pay damages in connection with the State‘s responsibility for the work of judges (articles 753 and 754 of the Code of Civil procedure) or because of an offense he/she committed.

- A decisive yet thorny issue can also be mentioned in this context that is the incompetence of a judge. Article 70 of the Law on Judicial Justice has entrusted the High Judicial Council

with declaring the incompetence of a trainee judge at the end of each year based on the suggestion of the Institute‘s board.

Article 95 have entitled the High Judicial Council to judge at any time, and apart from all disciplinary prosecutions, the incompetence of a sitting judge by a justified decision adopted by the majority of eight of its members.

It is not possible to implement this rule for the judges of the State Council or of the Court of Audit especially due to the restriction represented by the rule of the majority whose members in the councils of these two judicial bodies are not available.

It is thus essential, in the light of the principles of equality and justice, and on the way to comprehensive judicial reform, to publish similar texts that can be implemented in administrative and financial justice.

VI-Positive outcomes

We will settle in this regard for indicating the original aspect of the positive outcomes and will end by a general thought or remark.
The original aspect stems from the Law on honorary posts whereby the judge has the privileges given to sitting judges.

The thought is that any privilege given to a judge while in service or after the end of service cannot in any way be equivalent to the confidence people have in him/her or to the acknowledgment of having deserved the judicial title and honored it.

Second section: Adopted rules

The text is undoubtedly the cornerstone of the prevailing legal regularity; however, it still needs completion, explanation, analysis and jurisprudence in general. It needs as well a practice that feeds on the reality and on the scale of values in the society, especially if it is related to the subject of judicial ethics.

It is difficult to frame this subject in a limited textual legal cocoon. It is normal to draw upon the texts as manifested in the previous section and as it will manifest later, yet, it is also normal to enrich these texts with an additional subject that transforms into a set of binding rules. That is what we meant by adopted or common rules in the field of judicial conduct.

Lebanon has followed the steps of many countries when judges published the document ―The essential rules for judicial ethics” in 2005 (High Judicial Council and State Council Bureau). This document was prepared to be implemented, meaning that all the provisions mentioned in it that are outside the historical, judicial or intellectual context are binding just like legal texts are.

It is worth mentioning that there are many practical examples included in the document and that mainly came as a result of experience and sometimes as a result of foresight. Adopting examples means that they, as well, have complementary and useful analogues. As a result, adopted rules are characterized with flexibility making them expandable and sometimes reducible.

The publication of this document constitutes a landmark and a distinguished event in the judicial life. One of its many positive effects is that it is in principle prepared to become the basis for a comprehensive Arab document as it was clear from the meeting of Judicial Inspection Units in the Arab world. We only mention this quickly without any need to expand or to recall the historical introductions and backgrounds that paved the way for the document.

It should be noted that the document comprised height original rules that included ancillary rules in which examples and applications appeared. We ought to extract from these eight rules all that is directly related to this guide. It is not about summarizing as much as it is about screening.

In the light of all this, it is useful to divide this section into two chapters as follows:
Chapter One: Provisions extracted from the document.
Chapter Two: The relation between the provisions and the legal texts and adopted rules.

Chapter One: Provisions extracted from the document

In the first rule: Independence

The rule distinguished between the independence of the judiciary and the independence of the judge. It considered that a judge should not be content with saying that he/ she is independent, but rather work in a way that suggests he/she truly is. It also saw that a judge is independent from the society in general and from the parties to the dispute in particular. So a judge abstains from establishing any inappropriate relationship with the legislative and executive powers and protects himself/herself from their influence.
Among the practical aspects of the principle of independence is the exercise by the judge of judicial functions by relying on his/her professional estimation of the adequate facts and legal reasons, away from any external influence, instigation, pressure, threat, direct or indirect interference from anyone and for any reason. Another practical aspect is: the independence of a judge from his/her colleagues whether during a deliberation that gives him/her the full freedom of speech or while practicing judicial functions in any other situation.

In the second rule: Impartiality

From this perspective, a judge shall behave like a good father and have impeccable judgment in every case he/she handles. The judge should turn away from any special inclination and from expecting any personal gain. A judge shall exercise judicial functions in the way that consolidates confidence in his/her person and reduces the chances of having the litigants requesting challenge. Among the practical applications of the conduct of impartiality is the necessity for a judge to step down from a case any time the reasons mentioned in the law are present or any time he/she firmly believes there are serious grounds for making any fair and impartial observer doubt the presence of a conflict between the exercise by the judge of his/her judicial office on one hand and his/her personal interest and the interest of relatives, friends or partners on the other hand.
A judge shall run investigations in a firm manner, respect the parties and their rights to defense, avoid addressing harmful remarks to the stakeholders, and plead in a way that respects the ethics of the judicial office in case he/she is a Public Prosecutor.
A judge shall as well manage his/her own personal and financial business in a way that reduces to the maximum the chances of a challenge request or the odds of withdrawal from the case. A judge should not step down from a case if this step or the withdrawal of other members of the court leads to the miscarriage of justice.

Another application of the principle of neutrality is the abstention from any comment related to the course of the trial suggesting that the judge will deprive one of the parties from a fair result, whether this comment occurred during or outside the trial. Can also be mentioned the necessity for a judge to strictly control his/her behavior inside and outside the court.

Neutrality is one aspect of impartiality. A judge does not have the right to practice any kind of selectivity in decisions.

Equality is also an aspect of impartiality. The principle of equality is manifested in the abstention of a judge from siding with one of the parties on the basis of religion, confession, race, color, nationality, age, gender, civil situation, or psychological or physical abilities. It also takes expression in the treatment of lawyers, parties, witnesses, paralegals, experts, as well as colleagues in a non-discriminatory way on the basis of the mentioned differences.

In the third rule: Integrity

A judge shall spare no effort to make sure that his/her conduct is not suspicious. He/ she should always be vigilant and careful about any gain, or profit someone tries to secure for him/her, and about anyone who tries to get closer because of the judicial function, as it sometimes happens when some politicians, businessmen or those seeking power invite judges to dinners or private ceremonies without being personally involved. A judge should abstain from asking for any reward, gift, grant or loan because of a matter related to his/her judicial office. This prohibition also applies to the members of the family he/she is responsible for.

In the fourth rule: Obligation of reservation

We can cite among the practical aspects of the obligation of reservation the abstention of a judge from revealing any opinion that could make the litigants doubt his/ her impartiality. A judge shall also avoid all forms of religious, political or ideological struggle in general, and abstain from publicly commenting judicial decisions rendered by others in a way that could serve non- scientific purposes or that could belittle the court which issued the decision.

A judge shall, in his/her attitude, behavior, and tidiness, preserve his/her prestige inside and outside palaces of justice. The judge shall not establish personal relationships with the plaintiffs and their clients, avoid visiting politicians and public figures, and go to suspicious nightclubs or places inappropriate for his/her position.

A judge must not seek to promote the situation of the litigants in lawsuits filed before his/her colleagues. He/she must be very reserved when receiving lawyers in his/her office so that it is not interpreted as a sign of preference or bias to one of the parties. A judge shall not name a lawyer to represent a client in a certain case if asked by one of the litigants, and shall not give legal consultations to anyone.

Preserving the confidentiality of deliberations is a continuation of the obligation of reservation. It requires that the judge keeps the secrecy of deliberations, criminal investigations and other events as imposed by the law.

In the fifth rule: Moral Courage

In the most critical moments, a judge shall not forget that the decision is in his/her hand. He/she must then write what the law and conscience dictate, despite all negative pressing factors.

It is useful to note in this context that the judge cannot eliminate this uneasiness by refusing to examine the case through requesting withdrawal from the case, unless this feeling is very serious and rare. The right solution would not be withdrawal and transfer of the case to another judge but confrontation, i.e. moral courage.

In the sixth rule: Modesty

Modesty has many aspects, among which is calmness, one of the most effective judicial weapons. Rage, anger, and enthusiasm are sweeping emotions that may lead to loss of control over oneself and over the situation.

Modesty is materialized in many situations a judge might face. The latter shall not seek to use his/her position in order to complete a private transaction or violate the laws in order to ensure his/her needs or achieve his/her desires. This applies to anything that benefits family members, relatives or friends. Thus, a judge must not allow these persons to exploit his/her position to make private gains.

In the seventh rule: Honesty and honor

Judicial laws emphasized on the terms of ―honesty" and ―honor" in particular in the oaths. It is difficult to separate the two terms, yet, we can indicate some signals and examples that clarify their contents and preserve the particularity of each of them despite their close meanings and integration.

Honesty imposes itself in the relationship of a judge with his/her colleagues and is notably reflected in respecting hierarchal judicial presidents and informing them of the course of work. It also imposes itself in the relationship with the parties; the judge shall inform them, within the permitted limits, of the real course of the case (the reasons behind the delay in adjudication for example: complicated investigations, waiting reports of experts, extraordinary notifications, failure of judges to attend hearings, etc)

The honorable attitude does not mean excluding the right of a judge to organize his/her private life like any other normal citizen outside the judicial institution. A judge shall however in all cases maintain the prestige of his/her office and abstain from any attitude that might weaken the confidence in the judiciary (like bad companionship…)

In the eighth rule: Competence and activeness

Competence is the work tool of a judge while activeness is the work itself.
It is not possible in this context to elaborate on the issue of competence which is closely linked to the general legal and knowledge-related preparedness.

Activeness requires that a judge gives precedence to his/her judicial duties over any other duty. It also requires that he/she adjudicates cases within a reasonable period of time, does justice to all, and renders the adequate decisions hence avoiding miscarriage of justice.
A judge shall also always be prepared to perform any mission imposed by work requirements. The judge shall not tire of any file or case he/she is delegated to adjudicate.

Chapter Two: The relation between the provisions and the legal texts and adopted rules

It has become evident from what precedes that provisions-binding ones- included in the eight rules for judicial ethics come from two sources: legal texts, and adopted or common rules.

In many cases, it is hard to separate between the two intertwining sources especially that the second one (the rules) constitutes the practical detailed aspect of the first one (the texts). Nevertheless, it is useful to quickly indicate the extent to which each of them contributed in launching the adopted rules, thus the two following rubrics:
I- The direct effect of texts on the establishment of rules
II- The development of rules outside the texts

I- The direct effect of texts on the establishment of rules

The first rule (independence) was born in the Constitution then was echoed and focused on in the different laws on judicial organization and in the Code of Civil Procedure.

The second rule (impartiality) used the Code of Civil Procedure especially when dealing with the issue of challenge and withdrawal of a judge and the well-founded suspicion that a fair trial will not be given. It also resorted to the Codes of Civil and Criminal procedure when it handled the investigations and the guarantee of the rights to defense. It used as well the Law on the organization of the Audit Court and the Law on Judicial Justice, which mentioned impartiality in the oath of judges.

The Third rule referred to the Code of Criminal procedures when it prohibited a judge to ask for any reward, gift, grant or loan because of a matter related to his/her judicial office.

The fourth rule (obligation of reservation) mentioned the preservation of the confidentiality of deliberations drawing upon the oath taken by all judges and upon the acts that constitute a punishable disciplinary error. It also built on the Law on honorary posts which requires the judge to keep being committed to the obligation of reservation even after retirement.
The fifth rule (moral courage) - a rule only mentioned in the Lebanese document - was linked to what we called adopted or common rules.

The sixth rule (modesty) - a rule also only mentioned in the Lebanese document – was dominated by general rules not texts.

As for the seventh rule (honesty and honor), it emanated from the judicial laws, in particular the oath of judges. It reflects at the same time some of the principles the Law on honorary posts called to uphold.

The eighth rule used the Code of Civil procedure when mentioning the time limit to render judgments and the miscarriage of justice.

II- The development of rules outside the texts

There is no need to recall all the rules that developed outside the texts.
Nonetheless, it is worth mentioning that the rules that developed outside the texts – and they are many- have come either as an elaboration of a general textual principle, as a conclusion from successful judicial experiences, as an inspiration from inherited principles or as a result of mental insight, which is inevitable in the legal fields in general, and in the field of judicial conduct and ethics in particular.

ATTACHMENT 3

Liberté • Égalité • Fraternité
RÉPUBLIQUE FRANÇAISE

MINISTERE DE LA JUSTICE ET DES LIBERTES

Programme de visite d'étude à l'Inspection Générale des Services Judiciaires (IGSJ) de l'inspection judiciaire du Liban

Paris, 19 -23 juillet 2010

Composition de la délégation des Juges de l'inspection judiciaire du Liban :

- M. Ahmad Akram Baassiri, Chef de l'Inspection Judiciaire Libanaise et membre du Haut Conseil de la Magistrature
- M. Malek Souaebi, Inspecteur général,
- Mme Marlene El-Jorr, Inspecteur,
- M. Antoine Farhat, Inspecteur,
- Mme Sabah Sleiman, Inspecteur,
- M. Joe E. Karam, Avocat au Barreau de Beyrouth et conseiller au National Center for State courts (accompagnateur).

Référent IGSJ :

- M. Gilles Charbonnier, Inspecteur des services judiciaires.

Lundi 19 juillet 2010 :

- 10H30 : lieu de réunion : IGSJ 2/2 bis villa Thoréton 75 015 Paris (salle 109)
  - accueil par l'Inspecteur Général
  - présentation du programme de la visite d'étude
  - présentation générale de l'IGSJ

- Déjeuner libre

- 14H30 : lieu de réunion : Cour de cassation, 5 quai de l'Horloge, 75 055 Paris
  - visite à la Cour de cassation avec Eudes Chigé, conservateur en chef de la bibliothèque de la Cour de cassation
  - entretien avec Catherine Bolteau-Serre, chargée de mission auprès du Premier Président de la Cour de cassation

Mardi 20 juillet 2010 :

- 9H30 : lieu de réunion : IGSJ 2/2 bis villa Thoréton 75 015 Paris (salle 109)

- présentation du système judiciaire français par Gilles Charbonnier, inspecteur des services judiciaires

- Déjeuner libre

- 14H : lieu de réunion : Conseil Supérieur de la Magistrature 15 quai Branly 75 007 Paris
  - présentation du Conseil Supérieur de la Magistrature, de la jurisprudence en matière disciplinaire et des obligations déontologiques par Luc Barbier, président de la formation du siège

16H : Visite du Palais de Justice et du Barreau de Paris
Visite du conseil de L' ordre et reunion avec le Batonnier Jean Castelain et l'ancien Batonnier Jean-Marie Burguburu
4 Boulevard du Palais
75001 Paris, France
01 44 32 51 51

Mercredi 21 juillet 2010 : lieu de réunion : IGSJ 2/2 bis villa Thoréton 75 015 Paris (salle 109) ; thème : « les enquêtes pré-disciplinaires » :

- 10H : présentation générale par Jean-Paul Sudre, inspecteur général adjoint

- Déjeuner au self BALARD

- 14H30 : approfondissement par Nicole Verger et Sylvie Ceccaldi-Guebel, inspectrices des services judiciaires

-16H45 : Ambassade du Liban

Jeudi 22 juillet 2010 : lieu de réunion : IGSJ 2/2 bis villa Thoréton 75 015 Paris (salle 109) ; thème : « le contrôle de fonctionnement des juridictions » :

- 10H : présentation générale par Patrick Beau, inspecteur général adjoint

- Déjeuner au self BALARD

- 14H30 : approfondissement par Marielle Thuau, inspectrice des services judiciaires

Vendredi 23 juillet 2010 :

- 10H : Direction des Services Judiciaires : lieu de réunion : Ministère de la justice, 13 place Vendôme 75 001 Paris (salle Cambon)
  - la nomination, la promotion, l'évaluation, la discipline, l'éthique et la déontologie des magistrats

- 12H : évaluation de la visite d'études et fin des travaux

ATTACHMENT 4

NCSC SIJCAJ

ADR IN LEBANON

Assessment of Alternative Dispute Resolution

Oussama Safa
9/1/2010

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Introduction

The following report was compiled based on extensive interviewees with a number of stakeholders including judges, lawyers, activists, civil society professionals, donors and representatives of international organizations. The interviews followed a set of questions developed by the author; however, the discussions went above and beyond the confines of the questions (found in annex). Additionally, the report is based on a thorough desk research and review of existing laws and a select number of cases with a view to determine the likelihood and potential for a successful ADR program in Lebanon. The report summarizes the current, ongoing discussions on ADR in the country.

Some of the report findings indicate that ADR, particularly mediation, is fast gaining support for a variety of reasons including the need for speedy and amicable resolution of disputes, raise confidence in the ability of the Judiciary to mete out justice swiftly and fairly, and avail access to justice to wide sectors of the Lebanese population.

Major actors in the realm of ADR include the Higher Judicial Council, the Minister of Justice, the Center for Professional Mediation and the International Finance Corporation. All of these three actors are in the process of working together indirectly to pass a mediation draft bill that has been written by a group of lawyers, judges, academicians and businesspeople led by the Center for Professional Mediation. While the latter is working with the Higher Judicial Council and the Minister of Justice, the International Finance Corporation is dealing directly with the Prime Minister‘s office and the business community and relying on the output of the Center. Their efforts will soon converge on more than one juncture, one of which is the draft mediation bill.

The report also reveals that the full spectrum of ADR – aside from conciliation, mediation and arbitration – which includes mock trials, fact finding, mini jury and settlement conferences among other processes is not well understood or accepted in Lebanon. Arbitration, mediation and conciliation seem to be the only processes accepted and practiced in both formal and informal capacities. The report covers these three processes as the remaining ones do not fit the Lebanese legal system (such as mini jury).

The report ends with suggested action steps for the NCSC based on the Lebanese cultural context and in line with the customs of the Lebanese Judiciary.

The author is grateful to Mssrs. Mohamad El Darwish, Lawyer, Mediator and Vice-President of Consumer Protection Agency; Kamal Abuzahr, Lawyer, Arbitrator; Ziad Esper, Lawyer, Arbitrator/Mediator; Nedi Najjar, Lawyer, Arbitrator; and Yassmine Tfaili, lawyer, Mediator for providing comments and useful input on the technical and conclusion parts of the report.

Background and Context

Alternative Dispute Resolution (ADR) work in Lebanon is not new. As far back as 2002, the Beirut Bar Association‘s Institute of Human Rights organized a series of lectures and a training workshop on ADR mechanisms including mediation and conciliation. The Institute had hoped that the program would be institutionalized at the Bar Association, but that did not come through at the time. The training was organized with the European Institute *Infomene* and included Lebanese lawyers and judges.

The Lebanese Civil Code for Procedures includes at least two clauses that organize and provide for conciliation as an out-of-court settlement to be undertaken by a judge with the consent of the parties (a process similar to mediation). Judges and lawyers interviewed in this report have been practicing conciliation for years and think Lebanon is ready for a full mediation law.

The Chartered Arbitration Institute is working well in Lebanon and increasingly lawyers are writing into their contracts referrals to arbitration. Mediation, according to interlocutors, can be as successful as arbitration in getting disputes resolved. Some judges are already practicing mediation with the cases before them with a relatively acceptable rate of success. There is no law or current legal framework to make mediation an official practice (other than conciliation referred to above). During the tenure of Minister of Justice Samir El-Jisr, there were serious attempts to produce, along with the Bar Association a court-annexed mediation law. The efforts went nowhere following the departure of Minister Jisr and until the summer of 2009 when a mediation draft bill was submitted to the council of ministers for review, with the backing of the incumbent minister.

Mediation in Lebanon, for a while, was confused with the role of Ombudsman which is the court of grievances – essentially an independent office set up to deal with citizens‘ complaints against the administration through a process similar to mediation (discussed at length below).
In 2005, a law was passed to establish an Ombudsman‘s office in Lebanon. The law was called the Republic‘s Mediator, drawing on the French notion of mediator which is not what is understood as alternative dispute resolution in the Anglo-Saxon context. In France the dispute mediator is called *conciliateur* (conciliator) and the ombudsman is called *mediateur,* hence the confusion. Lebanon‘s Ombudsman law is a copy of the French model.
In 2006 and again in 2010 the International Finance Corporation (IFC), an affiliate of the World Bank, tried to study the prospects of launching an ADR program in Lebanon from the perspective of improving the climate of doing business in the country and for the benefit of small and medium enterprises (SMEs). A national workshop scheduled in 2006 was postponed indefinitely due to the war that summer. In July 2010, an IFC workshop sponsored by the office of the Prime Minister took place in Beirut. It was the IFC‘s second attempt to launch business ADR in Lebanon.

The University of Saint-Joseph (USJ)‘s Centre for Professional Mediation (CPM) is currently leading the efforts in Lebanon to institutionalize mediation in the judiciary, in business, in the Bar Association, with civil society organizations and within universities. The most advanced part of these efforts are with the judiciary and civil society. The Center has set up a working group composed of a judge, a lawyer, a businesswoman and civil society activists that meet regularly to plan and oversee progress. The CPM has written a draft law – in collaboration with the Higher Judicial Council, as explained later in the text – on mediation in Arabic and French (Arabic copy attached in Annex) and is trying to lobby for its adoption by the council of

ministers. This is the most serious attempt to legislate on ADR and institutionalize mediation in Lebanon.

In North Lebanon, the newly-founded Public Service Center (PSC), a joint venture between the American Bar Association (ABA), the CPM and a local foundation, is offering mediation to underprivileged communities surrounding Tripoli. The Center also offers pro bono legal services in addition to mediation and is now setting up fellowships for lawyers, members of the Tripoli Bar Association (TBA), to get trained in mediation. The Center's mission is to promote the culture of mediation through awareness raising sessions and pro bono mediation services, with the support of the TBA.

Currently the PSC is conducting a comprehensive mapping of the location of potential target groups in impoverished areas in the North to raise awareness and offer free mediation services. It is doing so through select municipalities, nongovernmental organizations (NGOs) and lawyers, with the support of the TBA. The Center is now in a pilot phase with the Tripoli and Beddawi municipalities. Some of the events scheduled for the near future include townhall meetings, training of large NGOs in the North (such as the Safadi and Mikati Foundations), faith-based groups and Private Voluntary Organizations (PVOs) working with detention centers, with the hope of triggering a snowballing effect for mediation. The PSC plans to extend mediation to Tripoli courts, if and when the mediation bill is passed into law. Empowering communities through mediation training seems to be one of the targets of the PSC.

Traditionally several forms of ADR have been used in Lebanon including informal community mediation; tribal conflict resolution, arbitration and mediation; business negotiation; religious and family mediation and conciliation. The challenges for a new mediation culture to take hold include building confidence in the usefulness and viability of this process. People must be familiar with this tool and lawyers, judges and citizens in general need to become seriously aware of its importance and usefulness before introducing it.

Lebanese Laws and ADR

In reviewing Lebanese laws and in discussions with Lebanese judges and lawyers, it is clear that the Lebanese Civil Code of Procedures provides for conciliation and arbitration mechanisms in court disputes[1]. Disputants may agree on which arbitration regime to choose – locally, in Europe, the US, and others – and hence refer to arbitration to settle their dispute out of court. The president of the Instance Court may appoint an arbitrator or alternatively parties to a dispute may choose an arbitrator and hence a panel of arbitrators may be developed to rule on disputes which then can be appealed if needed. Based on an arbitration clause inserted in an Agreement between parties, or based on an Arbitration Agreement where both parties have either not explicitly selected an arbitrator or have reserved the selection process to court, the parties may file a request before the President of the Instance Court to appoint one arbitrator or a panel of arbitrators. Alternatively, parties may select an arbitrator explicitly in the agreement, or they may reserve the selection process for the Chamber of Industry and Commerce.
Unlike mediation, arbitration is well grounded in Lebanese legal practice. Arbitrators are trained by a variety of institutions, most notably the Chartered Institute of Arbitration. A prominent Lebanese lawyer, Mr. Abdul Hamid Al-Ahdab, has written a major reference book

[1] Code of Civil Procedures introduces in its second chapter a full section of 44 articles (art.762-808) on the rules governing arbitration (pp.170-181). The code mentions conciliation as the "duty of the judge" and regulates it in articles 375 and 460, p. 83 & 102.

on arbitration that is widely utilized and publicized with arbitrators in Lebanon[2]. The incumbent Minister of Justice, Ibrahim Najjar, is himself a world-renowned arbitrator with global stature and the editor of the eminent publication, *La Revue d'Arbitrage,* including many other prestigious publications on the topic.

Under Lebanese law, the judge may offer conciliation (which is essentially mediation) in civil, commercial, religious and some penal cases. The lawyer may do the same. If accepted by the parties, the judge may write up the conditions for settlement in a contract which will become as enforceable as any court settlement[3]. In religious courts, the religious judge may also provide mediation; in fact, mediation and conciliation are widely practiced in religious courts in Lebanon[4]. However, no institution currently works on family mediation training or practice and hence this practice has not been institutionalized.

The Lebanese Ministry of Justice has signed in 1998 MoUs with European courts (German, French and Swiss) to deal with disputes between married couples from Lebanon and the concerned European country under the supervision of the MoJ and the Director-General of the ministry. The MoUs were designed to deal with family disputes outside the courts, especially adoption and child custody issues. This practice requires more training and institutionalization. Most interlocutors wished if mediation training could be integrated into education curricula for judges and lawyers as it would be very helpful for the future of developing mediation in the country.

The international tribunal regime that currently exists with Lebanon requires the amendment of Lebanese laws to be able to instill the practice of plea bargaining whereby the judge may propose mediation in penal cases. As long as there is no plea bargaining mechanism, the development of penal mediation will remain timid in Lebanese laws. In fact, no legal text provides for penal mediation.

Some judges see that it will be easy to promote a mediation law since the practice is already ongoing and Lebanese laws dictate that a contract becomes a legitimately enforceable document if concluded willingly between disputants. Any conventional mediation or accord between parties that end the dispute is considered legally binding between parties. If the judge finds a possibility to end the dispute amicably between the plaintiff and defendant, then she can propose an out-of-court settlement which will then turn into a legal document. What a new mediation law could do is organize the practice of judicial mediation by integrating it into the Civil Code of Procedures and utilizing it as a framework to regulate judicial mediation.

While the Judicial Institute and the Higher Judicial Council are interested in developing judicial mediation and adopting a new law to regulate it, there are some skeptics who believe that good

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[2] Mr. Al-Ahdab has written the voluminous and authoritative, Encyclopedia of Arbitration, in Arabic, published by Dar El-Maaref, Egypt, and is considered a major reference for arbitration in Lebanon and other Arab countries.

[3] Civil Code of Procedures, Article 465, p. 102.

[4] Religious mediation and conciliation are practiced in religious courts and regulated by the law of 1962, Regulation of Sunni & Jaafari Shari'a Law, in articles 337, 338, 347 and 364. A form of arbitration is obligatory in Sunni sharr'a cases, the judge in divorce cases refers to two arbitrators who gather both parties to try to solve the issue, if no solution is reached they file a report with their recommendation dividing the percentage of alimony between both parties. There is also a special committee *called lijnat islah that al bayn* which is designed as a mediation committee, though it is not active. The committee is technically a med/arb committee that mediates and/or arbitrates the final decision.

faith – a requirement for the success of mediation – cannot be counted upon in doing mediation in Lebanon. This is a matter that can only be addressed by awareness raising and education on mediation in a manner that transforms the culture of dispute resolution These skeptics fear that mediation might be utilized to prolong the judicial process. The proposed bill, however, is tailored after European and Arab legal frameworks that are best suited for Lebanon and include a three-month maximum period to conclude mediation.

The legal infrastructure for a mediation process exists since the president of the court can refer to the court counselor (also a judge) to become a mediator whose first task is to study the case and hence become a *de facto* case manager prior to mediation (a mechanism provided for in the Civil Code of Procedures). This practice leads interviewed judges to believe that the new mediation law does not need to develop a case manager position in order for mediation to take place successfully. A case manager is a position widely established and utilized in the Anglo-Saxon model of mediation and serves to manage the mediation process, beginning by referral all the way to resolution.

Interviewees believe that unlike other countries (namely Morocco and Jordan), a critical mass of Lebanese judges and lawyers exists to support mediation in courts and the only requirement is a law. This means that as soon as a law is passed, the awareness raising work will be minimal to convince judges and lawyers to take on judicial mediation in designated cases. There is an increased acceptance, according to lawyers and judges interviewed for this report, for the inclusion of a mediation clause in contracts[5]. Interviewees believe that the practice towards institutionalizing mediation is advancing slowly but surely and all what is needed is a new law and a partnership between such institutes as CPM and the Judicial Institute (JI) and possibly other well-known centers. The latter teaches judges in their second year only general information on ADR and focuses training mostly on arbitration laws – which according to some interlocutors will eventually need amendment[6].

In Lebanese laws, and according to judges interviewed for this report, conciliation and mediation are two different and distinct processes though the lines of distinction remain very thin. While both processes involve a third party, the mediator‘s role, as understood in Lebanon, hinges on the third party devising a solution that the parties are free to negotiate and adopt. On the other hand, the conciliator‘s role is exclusively the rapprochement between parties without the ability or mandate to propose a solution or devise an agreement. Some Lebanese judges and lawyers see mediation as a form of conciliation. For practical reasons, and concomitant with Lebanese laws and customs, several interlocutors preferred to merge both concepts and discuss mediation or conciliation interchangeably when referring to a neutral third party process aimed at finding an amicable, mutually acceptable solution to a dispute. This argument is backed up by the UN International Commerce Law of 2002 which equates mediation with conciliation.

There is a discrepancy between practice and legislation where mediation is concerned in Lebanon. In the laws, the most famous reference to mediation (conciliation) is in the Codes for Civil Procedures and particularly in paragraphs 375 and 460 where the conciliation is part of the judges‘ duty, if he so chooses. Historically, Lebanon had a conciliation judge (part of the civil code of 1933) whose sole job was to reconcile disputants. This obligation no longer exists and the current reference to the conciliation by judges is not mandatory.

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[5] This was confirmed repeatedly, notably by mediation champions judges Carla Kassis and John Azzi, both of whom were interviewed for this report.

[6] Interview with arbitrator and lawyer Kamal Abuzahr who commented on earlier draft of this report.

What the Civil Code refers to as conciliation has not been detailed as far as the full process and mechanism. What is known about this process is that it is judicial and within the confines of a lawsuit – hence a judicial conciliation. This does not obviate the parties from resorting to an out-of-court settlement. This can be done during any stage of trial, if the parties choose – similar to the right to resort to arbitration.

On the other hand, conciliation exists in legal texts covering religious courts especially in family mediation and in lawsuits calling for divorce and/or separation and child custody. The Law on Organizing Shari'a includes at least three paragraphs that delineate and explicitly lay out the process and required skills of the conciliator when mediating a family dispute[7]. Additionally, the labor law is pleasantly surprising in its detailed referral to mediation in one full chapter on the issue. The law explicitly refers to mediation (as opposed to conciliation in the Civil Codes of Procedure) and has allowed the mediator not only to reconcile both parties' positions but to also suggest solutions that might be mutually acceptable[8]. The law also designates who may serve as a mediator, how he is chosen and the details of the process and the agreement. The distinction between conciliation and mediation in Lebanese laws is best compared in the US system of ADR to facilitative vs. evaluative mediation, respectively. Additionally, there is also an arbitration council which is formed by a judge and representatives of employees and employers to arbitrate the dispute. There is also the Educational Arbitration Council which is there to arbitrate school/teacher and principal/teacher conflicts[9].

In a classic mediation, the mediator's mission is purely facilitative. The mediator does not give an opinion on the likely outcome of a trial or legal issues, but only seeks to help the parties find solutions to the underlying interests or problems that have given rise to litigation. Generally, in this kind of mediation, the mediator's expertise in the process of problem solving, rather than in the subject matter of the litigation, is viewed as paramount. Some mediation professionals view facilitative mediation as the preferred approach because the mediator upholds the principle of complete impartiality by not giving an assessment or prediction of the outcome of the case at trial.

In the evaluative approach, the mediator is more likely to give an opinion of the case. The mediator's opinion – including, for example, a legal and/or factual evaluation of the case, and sometimes an assessment of potential legal outcomes – is used as a settlement tool. This approach generally requires mediators who are experts in the subject matter of the case. Most evaluative mediators also consider the interests of the parties in attempting to facilitate a settlement. Many mediators blend facilitation and evaluation, applying each approach in varying degrees at different times during the mediation process, depending on the needs of a given case.
At the initial stage of practice, when mediators do not have much experience, the facilitative style is preferred. The evaluative style, while being an opportunity to create value for the parties, can also cause them harm if improperly used by an inexperienced mediator. However, with time, experience, and further training, mediators usually expand their repertoire and add a

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[7] ***Op. cit.,*** **Religious law, article 364.**
[8] **Law of Collective Labor Contracts, Mediaton and Arbitration, September, 1964,** ***Chapter Two: Mediation & Arbitration,*** **articles 29-51, pp. 91-98.**
[9] **Law 15/6/1956, article 29, paragraph 3, p. 178.**

more evaluative approach to their toolbox. They also learn which situation can be better for using either of the two styles or some kind of the combination of the two[10].

Other explicit references to mediation have been documented in the Lebanese Maritime Commerce Law[11], Consumer Protection Law (for disputes less than USD 2,000.00)[12], Lebanese Order of Engineers, Press Syndicate[13] and Bar Association all of whom have set up internal ADR mechanisms where all internal, collegial disputes must resort to mediation first before a decision to go public with the issue. Additionally, the Ombudsman law is another form of mediation between citizen and administration, especially when it comes to fielding complaints by the ombudsman and organizing listening sessions to arrive at an agreement.

As far as the process is concerned the ombudsman's stages are similar to those of mediation[14].

Several interviewees, proponents of a new mediation law, lamented that the current references to conciliation in the Civil Code of Procedures have not been enough and hence the need for a mediation law. Their main contention is that the judicial conciliation is widely seen by parties as a judicial settlement within the confines of a court and in the office of a judge and hence not an alternative to adjudication. In fact, the intended objectives of conciliation such as the reduction in time and cost; flexibility and good will; and the ability to vent and being heard have not been achieved. Lebanese courts remain crowded and parties retain the ability to forestall the process. Conciliation remains a judicial decision that is arrived at in a court of law and under the supervision and guidance of a judge. The surroundings and the environment of conciliation are all judicial and handled by a judge who runs the session, which makes parties reluctant to share their information or express their feelings.

Having a judge play the role of conciliator has been, based on experience, confusing for parties who act guarded and reserved for fear that if the conciliation fails they will end up before that same judge who will then use against them the information divulged during the conciliation session. Hence, experience has proven that the judge does not separate the two roles[15]. An added reason to this failure is the fact that there is no timeline for the conciliation to end which is an issue that has been exploited in the past by disputants as an excuse to delay and prolong settlement of the case. The proposed mediation law sets three months as the maximum time allowed for the mediation to be conducted.
What this study has found is that in Lebanon, unlike Morocco and Jordan, there are numerous legal and non-legal experts on mediation and ADR. The country would not have to start from a blank slate when it comes to institutionalizing mediation; in fact the infrastructure for this work already exists in addition to a pervasive culture of deal-making which will inevitably weigh positively on efforts to establish and disseminate a culture of mediation in Lebanon. There seems to be domination by the European model of mediation as opposed to the American model that includes varied forms of ADR such as settlement conference, mock-jury, mini-trial, fact-

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[10] This distinction is based on years of experience in mediation practice and training in Arab countries by the author of this report. The distinction was confirmed by key interviewees who see its application embodied by the difference between mediation and conciliation, as noted in the report.
[11] Maritime Commerce Law, February 1947, article 139.
[12] Consumer Protection Law, February 1964, articles 83, 84, 89 and 97.
[13] Publications Law, September 1962, articles 88 and 94 (amended in February 1991).
[14] Law of the Mediator of the Republic, No. 774, February 2005, articles 5 and on.
[15] This finding was confirmed by all interviewees, most notably of whom is President Sami Mansour, the Head of the Judicial Institute and senior member of the Higher Judicial Council. Mansour, a university professor, is extensively published on ADR mechanisms in Lebanon and the Arab World. Judge Mansour is a big supporter of the mediation draft bill.

finding, facilitation and negotiation. Of all these processes, what Lebanon seems to be focusing on is mediation as the sole ADR process to adopt and foster.

Types of Cases for ADR

According to some judges interviewed for this report, as soon as a law is passed such cases as landlord-tenant disputes, commercial and labor cases can immediately benefit, as judges in general find these cases time consuming and sometimes frivolous. This will speed up the process of justice and will lessen the backlog of cases in courts. Some judges believe that it would be difficult to train judges already on the bench to become mediators for the simple reason that these judges have a high seniority and are long schooled in legal processes and are unlikely to become champions and believers in neutral, third-party mediation. The best way to go about implementing mediation is to adopt a court-connected center such as the CPM or others that enjoys the trust of the judiciary and refer cases to it. This will help mediation soar in Lebanon.

There are no official statistics on cases settled out of court. However, specific cases reviewed for this report indicate that the legal context is ripe for mediation. Five cases of contract dispute, construction lawsuit and company-employee conflicts were reviewed to determine the applicability of mediation in the Lebanese context[16]. What the five cases revealed is a tendency to refer to arbitration as a swift and cost-effective process. However, none of the cases includes stakes high enough to obviate the practice of mediation. In fact two of the cases were actually referred to mediation, but because the court was responsible for the referral, the judge ended up giving a judgment.

Additionally, the cases represented a sample of the kinds of disputes based on financial and material interests which are classic cases that can be referred to mediation. The court log is replete with similar cases, some of which had arbitration clauses built into their contracts that can be easily replaced with mediation if and when there is a law that provides for that practice. Most probably, the cases ended up before a judge arbitrator since the practice of conciliation has remained weak and relegated to a small number of judges and has not been properly and widely disseminated. Parties resorted to arbitration to reduce the cost of litigation, time and confidentiality which is protected by a neutral third-party process.

A judge who practices mediation intensively, sees that mediation should come before arbitration in contracts and civil disputes. This same judge applies the civil codes of procedures in his cases[17]. He finds mediation to be a very practical option in Lebanon. He applies a lot of mediation in civil marriage cases where he mediates a whopping 75% of the cases. Thus, civil marriage and personal status cases which are not subject to a coherent legal framework in a sectarian context like Lebanon‘s become ideal for mediation. He also mediates cases of monetary compensation, debt recovery and bankruptcy at a rate of 50% of his cases. In his years of practice, he has mediated one thousand cases of tenant-landlord disputes. Such cases are important because they release other files that are jammed in the court. The mediation is done always in the presence of lawyers of the parties.

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[16] Cases reviewed are: case no. 1177/98, of 12/15 1998; 1020/98 of 12/22/1998; 1/2000, of 01/03/2000, Beirut Court by President Rashed Takkoush; and 89/96 of 10/15/1996; and 51/97 of 04/01/1997 by President Mounah Metri with President Antony Issa El-Khoury and Bechara Matta. The author is grateful to the Najjar & Co. law firm for making available these cases all of which started as a lawsuit and ended up being settled by a conciliator.

[17] Reference here is made to Judge John Azzi, a highly experienced mediator-judge.

A recent case that the interviewed judge has mediated includes an artist and a production company in conflict over the promotion of a music DVD. Both parties accepted to mediate because of the good reputation of the mediator. This means that mediation can easily spread if the mediators do a good job and establish a good reputation. In Lebanese social customs, word-of-mouth is a very effective way of disseminating and publicizing a practice. Mediation could benefit from this cultural issue. Other cases include media outlets and celebrity artists and within the entertainment industry. No details were available on these particular cases, due to the law of confidentiality and the celebrity status of the parties, but what can be concluded is that civil status cases, civil disputes and corporate cases are subject to mediation and there are hundreds of available examples.

Another judge thinks that there should be a mechanism in the law to organize and order mediation, in addition to training lawyers and judges on becoming mediators. It will be possible to try this out on simple cases from 15-100 million LBPs and then we will see. That same judge prefers that mediation be done under the auspices of the courts though this will require intensive training for lawyers and judges. Mediation, according to him, should not be done within the confines of the court or on the bench, but in a court-connected center.

Court Backlog Assessment and Modernization

In its backlog assessment of Lebanese courts in December 2009, SIJCAJ has articulated as its objectives the *Backlog Reduction Policy and Implementation* and *Case Timeline and Backlog Reduction Plan* both of which are objectives that could be served indirectly by an established ADR program that administers timely processes. An ADR program, if taken seriously, will also help with the comprehensive approach to improve court administration, efficiency and speed in dealing with the cases.

In another assessment on the Court Administration Improvement Plan (CAIP) of April 2010, SIJCAJ concluded that there is a substantial backlog of cases, an inadequate record keeping and the absence of effective case finding and management, poor archive management, and frequent disregard for time limits fixed by codes or regulatory procedures for the processing of the various steps. All of these findings, among other, can be an enough reason to adopt ADR as a new way of dealing with disputes. This is particularly relevant since Lebanese courts, as stated in the report, receive cases filed by lawyers but also non-lawyers (who can only file civil cases less than 1 million Lebanese Pounds as per article 378 of the Code of Civil Procedure) whose tendency to use mediation is much stronger than legally trained people.

One of SIJCAJ objectives is also to modernize Lebanese courts and to achieve visible improvements of the Execution Courts. The report also identified over 40,000 pending cases at the Execution Court. Any serious backlog reduction plan can benefit tremendously from ADR, especially mediation which can naturally impose time limits on cases. More generally, there are 15,000-25,000 cases backlogged in courts. Research has proven that successful ADR programs backed by top decision makers and the public can reduce backlog by at least 25% in the first three years of implementation.

Mediation will also improve archival procedures -- or at least not add to the current confusion -- especially if it is done by a court-annexed mediation center which has the capacity top operate as an efficient private center free from the shackles of a state bureaucracy.

Gaps in Existing Conciliation Clauses

Besides arbitration and mediation, no other ADR mechanism seems to be in currency in the Lebanese judicial system. The main difference between mediators and conciliators is that conciliators – in Lebanese laws – do not get paid since the conciliator is the judge. It would be more encouraging if the conciliator were a member of a committee and got paid an honorarium just like sworn technical experts or arbitrators. Conciliation may not be appealed, unlike mediation. The judge-conciliator executes his decision, but the mediator does not. In the Lebanese system there is no place for case management, hence the conciliator is the judge, case manager and the final person responsible for execution. This is partly the reason why conciliation as a speedy and amicable process has not taken deep roots in the judicial system; mediation can fill in these gaps.

Conciliation is expensive but, if it is consistently practiced, may lead to recovering expenses that are usually incurred by costly litigation fees. In the law of judicial fees, withdrawing the case is necessary for recovering fees which is not part of the civil status code or family mediation. This partly explains why civil status cases (i.e. civil marriage) are directed towards mediation. In mediation, you may mediate before going to court, or after you withdraw the case hence prior to incurring expenses. So, the idea is to have mediation before going to court and conciliation after you have filed the case; what remains is the need to devise a mechanism to choose the mediator.

CPM: Centre Professionel de Médiation

The CPM is hard at work on mediation and alternative dispute resolution efforts. They sent the draft law (included in Annex in this report in both Arabic and French versions) on June 9, 2009 to the prime minister‘s office through the incumbent minister of justice and after having unanimously been adopted by the judicial committee of modernizing laws. So far the cabinet has not looked at the law but is expected to do so in the fall, if the political situation permits. The incumbent minister of justice is a big supporter of the law since he see mediation as naturally practiced by judges and lawyers. The CPM‘s objectives include the development of judicial mediation in Lebanon by first raising the awareness of judges, lawyers and citizens which is a natural joint objective with the IFC, as discussed later. CPM is lobbying for the law with the Prime Minister‘s office.

CPM senses some natural tension with practitioners of arbitration and some lawyers who see a potential threat in a new mediation law. CPM is also working on other aspects of private mediation where a lot has happened to-date. A mediation unit has been developed at the BEMO bank – a first with the Lebanese Banking Sector – to deal with disputes in the banking sector. The intention of the new unit is to develop the practice and recourse to mediation by banks all over Lebanon. BEMO is currently raising awareness of bank employees and clients on the importance and usefulness of mediation. The CPM will soon work on commercial mediation which is another joint objective the Center has with the IFC. So far mediators at the CPM have successfully resolved 4-5 commercial mediation cases among others. Part of CPM‘s work also extends to cooperation with the International Chamber of Commerce.
CPM is also launching a mediation training and implementation project in Lebanese prisons where they are training wardens, select prisoners and NGO volunteers there. Soon the Center will create a mediation unit within prisons.

The CPM is also working with the newly set-up ombudsman‘s office to train its staff and help it adopt mediation mechanisms. The overarching vision for CPM is to develop a team of

Lebanese international mediators in cooperation and partnership with such international outfits as *Association des Médiateurs* (AME), *Groupement Européen de Magistrats pour la Médiation* (GEMME) and Brussels Business Mediation Center (BBMC) among others. The Center's cooperation with French mediation centers will eventually lead to French trainers seeking the cooperation of Lebanese mediators to promote judicial mediation in Lebanon. A long-term objective of CPM is to draw on Lebanese human resources and know-how in providing mediation training and services.

Most judges and lawyers interviewed for this report already know the CPM and its work on promoting mediation. In fact, they think highly of the Center and see it as the natural place for developing mediation. The Beirut Bar Association, on the other hand, is contemplating the creation of a Center for arbitration and mediation backed by the current head of the Bar. In 2001 the head of the Bar Association in Paris proposed mediation in Lebanon in a seminar held in Beirut. Since then, the idea of developing mediation in the Beirut Bar Association has been a serious consideration.

As part of its mandate, the EU-funded project Acojuris, headquartered in the ministry of justice, has organized a number of seminars on mediation and ADR approaches. The CPM is also well-known in the ministry and benefits from a good relationship with the minister and several key judges.

International Finance Corporation (IFC)

International organizations such as the IFC seem to be deeply involved in pushing through the passing of an ADR law, with a particular interest in business mediation. The author of this report found considerable efforts undertaken by the IFC in this regard. The IFC is currently launching a project with the Prime Minister's office and select ministries to pass a law on ADR as part of their effort to improve the business climate in Lebanon. IFC is interested in developing the capacity of a court-annexed or court-connected mediation center that deals with business disputes. The project is part of IFC's ADR Unit's efforts in Egypt, Morocco, Jordan, Pakistan and soon Lebanon. IFC's efforts are not new; in 2006 a national conference on ADR was planned in Lebanon, but the summer war of that year postponed it indefinitely. The effort was renewed at a conference at the Prime Minister's office on July 1st 2010.

The IFC has received the Prime Minister's green light to launch a series of activities including efforts to develop the new law, the identification of the future ADR center, the relevant courts to apply mediation and undergo mediation training and training of trainers. IFC would also like its efforts to be accompanied by national awareness raising on mediation. Hence part of their project is to launch a national advertising and awareness raising campaign in the country. The support of the prime minister for the IFC effort is key to passing the mediation law in the council of ministers and later in parliament.
IFC's Lebanon intervention will be following five axes: 1) develop a legal framework for mediation and ADR; 2) provide training in mediation, training of trainers and case management for judges, lawyers and future mediators; 3) develop a center, most probably beefing up the capacity of the existing CPM; 4) launch awareness-raising campaigns; and 5) develop mediation on campuses and in schools.

IFC's program is developed in cooperation with the prime minister's office with the overarching objective of developing a court-connected mediation program. This is also being considered by the Minister of Justice and the Higher Judicial Council; the obvious choice for the Center is the aforementioned CPM. IFC has secured the approval of the HJC and the MoJ though no timeline

for implementation has been set. Chances are that the IFC will also encourage the passing of the draft mediation bill that is currently sitting at the table of the prime minister's office, and will probably work through CPM[18]. In fact, the IFC is keen on avoiding a replication of efforts and is currently planning on utilizing the draft bill that was developed by the CPM and the HJC.

In their conference at the Grand Serail in July 2010, IFC recommended enhancing reliance on arbitration and mediation and speeding business conflict resolution as a way to improve the business climate in Lebanon. At the same conference, participants who included key stakeholders in mediation and the minister of justice, identified key impediments for such sectors as construction permits, investment and trade and concluded that an ADR program could speed up the resolution of disputes between disputants and enforcement agencies, foreign investors and local counterparts and so on.

The IFC's recommendation includes:

- Within one year, review and approve a draft law on mediation;
- Establishment of pilot Court-connected Mediation Centre ;
- Creation of mechanism for referral of cases and enforcement of settlement;
- Training and accreditation of professionals in mediation;
- Awareness campaign; and
- Curriculum Development on mediation.

In the long-term:

- National roll out of court-connected mediation centers;
- National Accreditation and certification system for Mediation Training; and
- Mediation to be introduced as integral part of Lawyer's Licensing and Continuing Legal Education Program.

There is no available timeline or clear indication that funding is available to proceed with implementing the above recommendations. What is sure, however, is that the IFC cannot go it alone and will need to work with other partner organizations in this monumental undertaking.

The Draft Bill

The draft mediation bill reserves the citizens' rights to seek court conciliation as stipulated in paragraphs 375 and 460 of the Civil Code of Procedures by allowing them the choice of either mediation or conciliation. The law is also wide open for use in a variety of cases and does not limit mediation to labor, commercial or family issues (as in Morocco and Jordan, for example). The only non-mediated issues are gambling debts, personal injuries and disputes emanating from illegal bribes and corruption. The law also provides for partial or full resolution of the case, in the hope that this will facilitate the settlement in court later on.
The law does not specify who may be a mediator and what kind of requirements, skills and credentials she must have before taking up mediation; though there is room for certification. The law also leaves the issue of mediator fees as hanging and if a mediation law is supposed to facilitate access to justice, then this fee issue might hinder that by making the exercise an equally costly affair as the legal proceedings.

In the Civil Code, the judge may perform conciliation in his office in the court and write-up an agreement which will become a legal accord between disputants. In the mediation law, the

[18] **This information is based on an interview with Navin Merchant, Head of the ADR Unit at the IFC Regional Office in Cairo, Egypt.**

mediator, following written notification that he has been designated may hold the mediation session anywhere that is accepted by the parties which will give them a better psychological comfort with mediation. Similar to the mediation law, the Civil Code provides for the judge‘s role in detail when practicing conciliation. In this situation, the judge is asked to listen to the parties and find help them arrive at a settlement and in no way shall he perform his duties as a judge or interfere in the settlement or give his opinion of it. There is no obligation, however, to refer to conciliation in the Civil Code unless this is provided for in contracts.

Conciliation, as understood in a North American context, groups both mediation and conciliation. In Lebanese laws, the conciliator has a facilitative non-binding opinion. The mediator, on the other hand, can formulate an opinion and provide it to the party (at least this is what the draft bill stipulates).

The draft bill follows in line with the Arab League‘s Guiding Unified Law on Mediation. The HJC prefers that the mediation be through a court-connected and not with judges themselves (this seems to the consensus) for fear that the judge will remain partial in the settlement and cannot be objective or neutral[19]. The courts may appoint a mediator as a sworn expert which is already part of the law.

According to the draft bill, the mediation referral process would have to flow in the following way:

- The court invites the parties to use mediation, usually by letter of invitation followed by an initial briefing by the judge. If either party refuses mediation, the case proceeds through the court in the normal manner.

- If both parties accept mediation, the court passes the names of the parties to a designated Mediation Center. The Center then contacts the parties to arrange a mutually convenient date and time for the mediation session.

- The mediation takes place at the Mediation Center. An experienced mediator guides the process, helping both parties understand the other‘s perspectives and find a mutually agreeable resolution. Most mediated cases can be resolved within a three-hour period, with occasional follow-up sessions being required.

- If there is a resolution, a mediation agreement is drawn up at the end of the mediation session, and either signed then or at a later date after parties have had time to review the agreement. The court is informed and closes the case.

- If there is no resolution from the mediation, the court is informed and the case continues through the normal court process[20].

Possible Gaps in the Mediation Bill

The mediation bill is a good start, like other mediation laws around the world, if passed, will need a certain trial period after which an assessment should be made on what works, and what requires improvement. Judging from experience from other countries where this author has worked on mediation laws and practice, possible gaps include:

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[19] Again, this issue was stressed by Judge Mansour of the HJC.
[20] Author’s unofficial translation of key articles of the draft mediation bill included in annex in this report.

- The fact that the law leaves open partial resolution of cases and the return to court by disputants might endanger efforts to reduce the case backlog that Lebanese courts suffer from. Attention should be paid to discouraging a return to court lest a major objective – reduction in case load – be defeated by this practice. Additionally, the fact that an out-of-court mediator who is not necessarily a trained legal expert might deal with a case and then return before a judge might detract from the credibility of the process.

- The law provides for mediator certification to ensure the necessary skills and readiness of mediators. Research has shown that certification is limited in efficiency when it comes to preparing mediators. It might be more effective to introduce a mediator buddy system whereby beginner mediators spend a minimum amount of hours working along with a senior mediator to build experience, go through an appraisal and then become solo mediators certified by the courts. This will ensure that mediation sessions are taken seriously and will avoid steep learning curves for early practitioners.

- The law does not include a quality control or supervision mechanisms to ensure the proper conduct of mediation. Aside from reviewing the signed final agreement and accepting it by the court, there is no clause in the law that sets criteria for drafting agreements. This might be less of a problem in the presence of lawyers with the disputants, but could be a serious obstacle for mediation sessions that take place outside of major courts and major cities. It will also open the door for possible manipulation of the mediator by one or more lawyers. An oversight mechanism – usually done by a case manager – should be in place.

- The law allows for mediators to provide a substantive opinion of the case and its potential solution, which means that the obvious choice is for evaluative mediation vs. other forms of third-party intervention. While the Civil Code for Procedures provides for a neutral role of a third party (the judge), the mediation law must allow for other forms of mediation such as facilitative or conventional models, especially that the plan is to choose a court-connected center. This means that mediators might not necessarily be experts in the subject matter.

- The mediation law assumes that there will be a court-connected center (obviously the CPM, as confirmed by interlocutors), but does not guarantee financial sustainability or works out the modalities of the relationship between the center and the judiciary. In case of appeals of mediation agreements, this issue is bound to create friction between parties, the judiciary and the CPM.

- The law leaves it up to the parties to sign the agreement at the close of a mediation session or ~~"at~~ a later date" of their choice. From experience, this clause is bound to create problems as some parties might change their mind, or utilize the mediation session to make-believe that they are attempting a resolution whereas in reality they are using it to forestall and drag the process. A clause saying that in the event of reaching a mutually acceptable solution, especially in the presence of lawyers, it is imperative to sign the agreement forthwith.

- Parties' incentives are, of course, some of the most important factors to create demands for mediation. The draft bill does not seem to provide clear incentives such as fee recovery, guarantee of execution or speed of resolution.

- Lastly, the law does not specify cases that are eligible for mediation and those that are not. It does not also specify a financial ceiling or other limitations for cases. This is bound to create resistance for mediation if it is not dealt with properly in the Lebanese context. Litigants might fear that mediation is not serious enough to take on cases with high financial stakes, hence arbitration or adjudication might be preferred over mediation.

Future of Mediation in Lebanon

Generally, mediation is most needed and should work best where transaction costs of litigation and other court procedures are particularly high. High transaction costs of litigation can be understood broadly, as any obstacle to efficient resolution of dispute, whether dilatory, monetary or other costs that raise the expense of resolving a dispute for a party. In Lebanon, this is a typical case that a serious mediation program can immediately assuage.
There are a few factors that should be assessed as Lebanon launches mediation including the existing laws, practice and culture of dispute resolution, perceived need of mediation, ADR experience, key stakeholders, NGOs and international organizations, and sustainable funding. Fortunately, the case of Lebanon, unlike other countries in the region, scores high on all of these factors in the following ways:

- In addition to having mediation/conciliation as part of the Civil Code of Procedures and the labor law among others, a draft mediation bill is in the last stages of the policymaking process and a good amount of optimism surrounds its future.

- There is a deeply anchored practice and a culture of dispute resolution and conciliation. In fact several judges already practice the out-of-court settlement and there are documented cases on this. Additionally, there is another draft bill to enforce the execution of decisions and that bill has found its way to parliament. The bill will no doubt help the mediation practice if it passes into law, since mediation and judgment enforcement go hand in hand[21].

- Though access to justice remains an issue, the judicial corps enjoys the trust of the public and is perceived positively which will also be an added value to litigants if they seek mediation.

- Whether in the judicial, business or NGO sectors, there seems to be considerable experience of practicing ADR and with a lot of success. Additionally, training in mediation and available trainers are abound which will also boost the practice in Lebanon.

- From the case analysis conducted for this report, and according to lawyers and judges interviewed, there seems to be a need for mediation as it is increasingly requested by lawyers, disputants and judges.

- There is considerable buy-in from key stakeholders including the HJC, JI, MoJ, private sector, parliament and the council of ministers in addition to civil society. This is

[21] A law to speed up trial and execution of decisions has passed parliament's general session and is now before the general assembly for ratification. The law allows for speeding up executions of cases of LL 15 million (USD 10,000.00) and less of which there is 400 thousand cases awaiting execution, in *Minister of Justice: There Must be a Modernization of Execution Law in conformity with International Accords,"* Annahar Daily, in Arabic, Friday, 23 July 2010, no. 24111, p. 8.

already a great plus for mediation to take hold and a healthy indication that this effort is not starting from scratch.

- Though no international NGOs or donors are actively working on ADR, some have indicated willingness to support such efforts in the future

Benefits of Mediation

In any future mediation project in Lebanon and taking the Lebanese cultural context into consideration, it should be made clear that mediation is a good tool at least partly to achieve the following objectives:

- Reduce court backlogs by speeding up settlement and turning otherwise acrimonious arguments into win-win negotiations;
- Reduce time necessary for contract enforcement, especially if accompanied by the new enforcement law that the incumbent minister of justice has managed to pass;
- Reduce costs of dispute resolution by limiting court and legal fees and/or introducing a fee-recovery system with mediation;
- Increase number of out-of-court settlement;
- Reduce formality and complexity of the existing processes and modify the ―culture of dispute resolution" based on adversarial proceedings and the assumption of the zero-sum game, and a hostile mindset;
- Reach marginalized areas and populations and increase access of disadvantaged groups; and
- Increase satisfaction with dispute resolution and promote long-lasting relationship between disputants.

Although mediation itself is not an enforcement mechanism and mediators alone do not possess powers of compelling the disputants to enforce a contract, there are different ways in which mediation can shorten the time necessary to enforce a contract. Successful mediation can drastically shorten the time necessary for reaching a solution (disputes are usually resolved in one mediation session). Out-of-court mediation systems can resolve the conflict at a very early stage before the case is brought to the court, hence it is important that it goes hand in hand with the Civil Code of Procedures.

When considering the introduction of commercial mediation, for example, it is important to consult extensively with businesses in the country about the main reasons they should go to mediation instead of litigation. Firms will be the main beneficiaries of commercial mediation and therefore are the best positioned to determine which problems can be solved by introducing mediation. An interesting perspective on this is that of American businesses in choosing mediation over litigation. Here is where NCSC can play a role since commercial mediation remains the weak link in the ongoing debate on mediation in Lebanon.

Lebanon has obviously chosen a court-connected mediation center (CPM) to conduct official mediation if the law were to pass. This will mean that the CPM will be linked to the court system but will not be part of it. Cases are either referred by the appropriate courts or from outside the court (without having the case filed in the court, or after filing but without the

judge‘s intervention). Agreements arising from a court-connected mediation will be enforceable as court orders. Using this system must be piloted with some courts outside the capital city and in peripheral regions.

The benefits of a court-connected center are that it allows cases both from inside and outside of the court system; it provides a steady flow of cases from the courts and it can achieve objectives of mediation that are not likely to be attained by private centers, including some of the benefits listed above.

Some of the issues that authorities will soon have to deal with, however, include the necessary approval and support of judges; parties‘ perceptions that mediation is a part of the court system and litigation process; and geographical limitation to places where there are courts (unless cases can be referred to other cities/venues).
Court-connected mediation are usually more desirable than other systems such as court-annexed or in-court mediation (such as in Jordan) because of the possibility of admitting cases from out of the court system and because of the need for a less rigid legal framework. This is a healthy practice if it were to take hold in Lebanon.

Court-connected mediation easily permits the establishment of many centers and the creation of competition among them. In such case, judges and parties would select mediation providers with the highest skills and quality of services.

For the above reasons court-connected mediation facilities should be preferred in Lebanon. Additionally, a system should be devised to train judges to know which cases are amenable to mediation and to refer such case to mediation.

Possible Challenges for Mediation to Take Hold

The right conditions have to be in place in Lebanon for a mediation program to be successful and to achieve the intended objectives. Unlike a judge, a mediator cannot force the parties that are in dispute to resolve their dispute through mediation (as mediation is a non-binding procedure). The parties need to have the right incentives to choose mediation over litigation or arbitration. This is something that is often ignored and is the main cause of many failed mediation projects.
The absence of these incentives along with other prerequisites and conditions will jeopardize the success of the program. Experience has shown in implementing ADR programs that creating the right incentives for the parties is critical for success.

Usually, the way to mitigate these problems is to establish an appropriate mechanism for case selection, introducing awareness about the benefits of mediation or other ADR mechanisms and other incentives such as fee recovery, confidentiality and speed. The draft bill must take these steps into consideration if it were to succeed.

It must be noted that one of the key differences between mediation and arbitration is the way in which parties enter the process. While mediation is usually a voluntary process, most parties go to arbitration because they had committed to it through the arbitration clause in the contract establishing the transaction that was a ground for the dispute (i.e. before the dispute arose). If there is an enforceable arbitration clause, the parties do not have a choice in participating in the arbitration proceedings, and later are bound by the arbitration award.
Parties should be encouraged to include mediation clauses in their contracts. Parties to such agreements will be obliged to meet for mediation and attempt to mediate. Since mediation is a

non-binding process, parties still can decide whether they want to settle and cannot be forced to do it. This is a positive connotation that is bound to make referral to mediation much easier than is usually the case at the start of such programs. But some interlocutors who practice mediation encourage the incentives of fee recovery and speed for parties who choose mediation and also encourage the fact that mediation be legislatively recognized so parties will trust it as an efficient for of dispute resolution

The lack of demand for mediation is possibly the most common reason for failed ADR projects. The biggest problem in most countries is a low perceived demand for mediation services and the small number of appropriate cases going to mediation. Thus, in designing and executing mediation in Lebanon, more attention and resources should be directed to creating demands to participate in mediation, selecting appropriate cases, and informing parties of potential benefits and limited risks of mediation.

Arbitration

Arbitration exists in Lebanon, and in the interviewees‘ views, it is not considered as an ADR mechanism since it is done in the court or under a legal instrument and is considered as _private judiciary‘ (or as some refer to it the” judiciary of the rich” in an allusion to its high cost). Cases that can be subject to arbitration are limited to commercial and civil cases (mediation is not limited to these sectors) and is obligatory in contracts. The result of arbitration is binding to the parties. Additionally the settlement reached through arbitration is subject to appeal in the court of law or before a judge. An arbitration-based solution can trigger other conflicts and end up in a win-lose outcome, whereas the mediation-based agreement has the potential of facilitating solutions on other fronts and most likely ends up in a win-win outcome.

The Judicial Institute teaches arbitration and mediation is subsumed under it as the role of a third party. No official mediation teaching or training happens at the JI, though the Institute often hosts or takes part in mediations seminars and conferences and ensures that judges are well aware of the nature of mediation before graduating. The JI sees conciliation (in the law) as going together with a new mediation law that is being proposed by the minister of justice to the council of ministers.
Unlike mediation, arbitration is binding for the parties and has a much more formalistic procedure including the possibility to appeal arbitration awards in court. Introduction of arbitration requires detailed legal regulation of its procedures and enforcement. Being an arbitrator requires different and more demanding training and much more expertise in the subject matter of the dispute.

Finally, an arbitration project would have a different timeframe than a mediation project. In practice, parties can commit to arbitration both at the time of signing the contract or when the dispute arises. But, in practice, when there is a conflict, at least one party doesn‘t have the incentives to submit to a quick and binding procedure such as arbitration. Therefore, in practice, a vast majority or referrals and commitments to arbitration occurs during drafting of the contract and the dispute resolution clause.

Conclusion

No efficient, serious and credible ADR program can be established without improving court management, administration and efficiency. Hence SIJCAJ work on other fronts of court reform is essential in this regard.

All interlocutors concur with the fact that draft mediation bill – which has been the fruit of a consensus between the judiciary, academia, private sector, bar associations and civil society – is the necessary addition to the existing set of laws that will propel alternative dispute resolution to the forefront of the litigation scene in Lebanon. In fact, all interviewees familiar with ADR efforts in Lebanon, including the IFC, have pointed to the draft bill as the main engine to drive mediation in a Lebanese context.

The ADR scene in Lebanon will soon witness a new addition in the form of a new mediation law which fits a new global trend of increasing reliance on alternative, informal conflict resolution mechanisms. Though Lebanese culture is very prone to settlement and a mercantile deal-making mentality, it is surprising that the mediation debate is still in its early stages. Mediation training, however, is on the rise. The CPM offers a one-year versatile training with a dissertation and a chance for advanced training and certification of mediators. The latter can then serve as mediators on call at the Center.

Universities such as LAU and the Lebanese University French Section offer training courses in conflict resolution and mediation. NGOs such as the Permanent peace Movement (PPM) and the Lebanon Conflict Resolution Network (LCRN) and others do the same as well as provide mediated interventions in community and business disputes. The Beirut bar Association held in February 2009 a conference on ADR and is said to be planning to organize further training in this field for lawyers.

Since civil society seems more advanced than the courts in adopting mediation, NGOs should be tapped for experience, training and interventions. Awareness rising should precede any law development, backed by a pilot project that tries mediation first in a court that is less busy than other courts in big cities.

In the next phase, a stakeholder group needs to be created to champion and push for the passing of a mediation law and the institutionalization of ADR. The group formation at this time can benefit from an existing momentum and a meeting of interests of public and private sectors, international community and civil society.
A typical stakeholder group includes, but is not limited to, the Ministry of Justice; judges, and particularly President of a pilot court; chambers of commerce and other business organizations; bar associations; the Ministry of Finance (needed for funding); NGOs and international organizations, including donors; representative of mediators (or mediators‘ association); center administrators and staff; and representatives of academia (local university or country expert).

Funding and international, non-European expertise will be required. SIJCAJ can potentially play a role of facilitating exchange trips with other Arab countries that have instilled mediation (Morocco, Jordan, Bahrain, Egypt and the UAE) or with the US where exposure to mediation there will be of extreme value for Lebanese interlocutors.

There is a strong potential for establishing mediation in Lebanon on sound footing as the major ingredients and buy-ins are gathered – which is rarely the case elsewhere. In many ways, the program would not be starting from zero; hence additional actors such as SIJCAJ must come in with an integrated program of training, exchange trips and beefing up of mediation centers in Lebanon.

Suggested Future Action Steps

The mediation/conciliation clause was mentioned in the Code for Civil Procedure for the first time in 1933 and later amended three times in 1950, 1961 and 1985 which is when the Civil Code was last amended following years of negotiations and lobbying between the judiciary and the government. There is general agreement that amending the Civil Code is out of the question at this time. The focus is currently on finalizing the mediation bill and passing it into law.

The mediation landscape is wide open in Lebanon for interventions to support the process and bring in a much needed value-added to ensure that the mediation law sees the light on firm grounds. While ongoing discussions of ADR have gained momentum in Lebanon, consistency remains an issue. The CPM has been diligent in following up on the mediation bill; the IFC – by the fact that it is not based in Lebanon – has been an occasional (though very effective) actor in this regard. NCSC's SIJCAJ program has several key roles to play in ensuring that the momentum created around ADR be seen to full fruition. Following are suggested steps, in line with Lebanese legal traditions and customs:

- Successful ADR programs necessitate national consensus and crucial buy-in from relevant stakeholders in order to launch successfully. Within the Lebanese judiciary, the HJC and the Minister of Justice have taken a lead role on this; however discussion about mediation needs the input of other actors in order for it take off and make a real difference. SIJCAJ is recommended to establish an ADR task force that groups HJC, MoJ, CPM and an NCSC expert to undertake wide consultations and seek input and acceptance of syndicates, unions, business associations and civil society on the shape and usage of mediation in a Lebanese context. Input from these consultations should be fed to the ongoing process of finalizing the draft bill and amending its clauses if necessary.

- Most of the great efforts spent on promoting ADR have focused on the supply-side of mediation including training, mediation center and legal amendments. Not enough efforts have been put on the demand-side of the equation which entails building confidence in the process and ensuring that if and when the bill passes into law, citizens will seek mediation. To this end, NCSC is advised to begin preparing the ground for mediation and ADR to take roots by raising awareness on the usefulness and merits of mediation. A national conference, as well as promotional material (leaflets, brochures, promotional DVDs, etc.), in coordination with the MoJ, HJC and CPM should be produced in Arabic and sensitive to the Lebanese context to promote mediation and ADR mechanisms and their benefits.

- Keeping in line with promoting mediation and speeding up its institutionalization, NCSC is advised to conduct a poll of a representative random sample of Lebanese citizens from various sectors on the likelihood of referring to ADR. Having a credible poll in support of ADR will provide legitimate statistics that will speed up the process of convincing legislators to act to pass the mediation law and prove the usefulness of the matter.

- A lot of the discussion on ADR in Lebanon has been grounded in European models of dispute resolution. The Anglo-Saxon, and particularly the US, experience is very rich in ADR models and mechanisms that NCSC would do well by introducing them to Lebanon. To this end, a number of study tours to the US and Canada for a sample of Lebanese lawyers, judges and key stakeholders

should be organized to get introduced to these models, be appraised with the latest processes and learn of the latest research and statistics on this issue. Similarly, NCSC is advised to bring a group of US and Arab experts to work with their Lebanese counterparts on the best ways to launch ADR in Lebanon. NCSC should also plug into USAID-funded ADR programs in Morocco, Jordan, Bahrain, the United Arab Emirates and Egypt to introduce to Lebanon Arab models of successful mediation programs. This will bolster confidence in the process.

- Most of the talk in Lebanon is on ADR in a court-connected center working with the Judiciary, at the expense of ignoring the out-of-court practice of mediation. NCSC, in order to ensure that confidence is built in an ADR system, is advised to conduct targeted training workshops for select lawyers, judges and relevant stakeholders to sensitize them to ADR principles and, more importantly, build a pool of champions to support ADR in the future. The training and capacity building can be done with sector-specific participants (lawyers, business associations, labor federations, etc.) and trigger a snowballing effect by conducting basic, advanced and training of trainers in mediation.

- NCSC is advised to tap on its already existing good relationship with the Judicial Institute to integrate into the latter‘s curriculum a short course on mediation. If this is not possible, extra-curricular sessions should be organized in such a way that graduating judges become well-versed in mediation techniques and principles.

- NCSC could create at a later stage a Mediator League or Association tasked with developing the practice of mediation by developing a code of ethics, designing a monitoring and quality control system, holding yearly conferences and publishing on mediation. This will ensure that mediation practice is grounded in a serious and carefully monitored way.

- Lastly, as soon as a mediation law is passed and a court-connected center is active, there will be a need to develop an ADR management program within the Judiciary that will be tasked with vetting and referring cases to the center and ensuring follow-up. ADR management can be tricky if it is not well-managed, hence NCSC is advised to initiate discussions with key stakeholders (such as HJC, MoJ and CPM) on offering capacity building training for select personnel in ADR management drawing from successful models in the US. The issue of ADR management seems to have been largely ignored by the key stakeholders.

Any mediation start-up will require a critical phase of building support, creating demand and accumulating best practices. NCSC‘s good relationship with the Judiciary, bar associations and other similar stakeholders can be built upon to implement the recommendations above which are bound to transform the culture of dispute resolution from an adversarial win-lose mentality into a win-win outcome.

Annex I: Draft Mediation Bill

مشروع قانون الوساطة

المادة 1

يجوز للأطراف الاتفاق في النزاع أو حه في النزاعات التي يجوز للأطراف التصالح عليها، الإلا م على ذلك بين شخص يدعي أن سيط يعلم على ذلك بين الأطراف يُسمى "الوسيط" إلى أن يتم إطلان حم بنجاح تسوية النزاع.

المادة 2

أ يغ الإجراءات المتبعة أمام المحاكم والمذكورة في المادتين 375 و 460 من قانون الإجراءات الجزائية وفي أي قانون آخر يتضمن أحكاما تتعلق بالوساطة، يجوز للقاضي أن يحيل النزاع في أي مرحلة من مراحل الدعوى، بناء على طلب أحد الأطراف، أو بعد عرض النزاع عليه شفويا أو كتابيا على الأطراف المعنية، إلى الوساطة، إذا رأى أن الظروف تسمح بذلك. وفي حال إحالة النزاع إلى الوساطة، يجب على القاضي أن يحدد أجلا لا يتجاوز ثلاثة أشهر، قابلة للتجديد مرة واحدة بناء على طلب الوسيط أو بناء على إعلام من الأطراف، يجب على القاضي أن يحيل الأطراف إلى الوسيط المعتمد من قبل وزارة العدل.

ب - يكون الوسيط مستقلا عن الأطراف وعن النزاع موضوع الوساطة.

ج - يتم اختيار الوسيط من قبل الأطراف وفق الشروط والإجراءات المنصوص عليها في هذا القانون.

المادة 3

يجب أن يتضمن الاتفاق الكتابي للوساطة على الأقل البيانات الآتية:

أ - هوية الأطراف

ب - موضوع النزاع

ج - مدة الوساطة، على أن لا تتجاوز ثلاثة أشهر، قابلة للتجديد مرة واحدة بناء على طلب الوسيط أو بناء على إعلام من الأطراف، وتوقف آجال التقادم والسقوط طيلة مدة الوساطة.

د - هوية الوسيط المختار من قبل الأطراف.

المادة 4

يمكن للأطراف الاتفاق على تعيين الوسيط من بين الوسطاء المعتمدين من قبل وزارة العدل، حيث تعد قائمة الأوساط المعتمدين من قبل الوزارة المكلفة بالعدل.

المادة 5

يجب على الوسيط الالتزام بالشروط الآتية:

أ - أن يكون غير محكوم عليه بجناية أو جنحة مخلة بالشرف.

ب - أن يحمل شهادة في الوساطة أو تكوينا معترفا به من قبل وزارة العدل.

ج - أن يوقع على ميثاق الوساطة الذي تعده وزارة العدل قبل مباشرة مهامه.

د - أن يوقع على الإقرار بالحياد والاستقلالية والنزاهة.

المادة 6

يمنع على الوسيط - تحت طائلة العقوبات المنصوص عليها في قانون العقوبات - أن يبلغ عن خطيئة إلى السلطات القضائية إلا في حالة ارتكاب جرائم الإرهاب والجرائم الماسة بأمن الدولة، أو الجرائم التي يعاقب عليها القانون بالسجن المؤبد أو الإعدام، أو الجرائم التي تمس بالنظام العام.

يمارس الوسيط مهامه بكل حياد ونزاهة، ويلتزم بالسر المهني طيلة مدة الوساطة وبعد انتهائها، ولا يجوز له الإفشاء بأي معلومة تحصل عليها خلال الوساطة.

يمنع على الوسيط الاستفادة من أي امتيازات أو حصانات خلال مدة الوساطة.

المادة 7

أ - يجوز للقاضي أن يحيل النزاع وفي أي مرحلة من مراحل الدعوى على الوساطة بناء على طلب أحد الأطراف أو من تلقاء نفسه، إذا رأى أن النزاع يقبل الوساطة، وأن سير الوساطة لا يتم تشكل مساس بالنظام العام.

وفي جميع الحالات تعد الدعوى المحالة إلى الوساطة منتهية بقوة القانون بمجرد إحالة النزاع إلى الوساطة، ويلتزم القاضي بإشعار الأطراف بذلك.

ب - يتم إعلام الأطراف بالإحالة إلى الوساطة، ويوقع الوسيط خطابا يتضمن الأطراف هذه

ذ ِ طه ِإ أو لا إن ى إل ا م ل ُّي أ ُ جزئي ح ِل ا ن ض ُ ا ع، ُ ذعو دان دعو ى ي ج ذ دا ان ى ج ذ ُل
ان ً ش ا ك ع ات.
ان ً ا د ج 8
ت ُ ا ء على ط ة الأط را ف، ذ ظ ا د م ان ً ح ك ً ح على الإل ا م ل ا ح ا ط م ي ٍ خلال ان ِ س ا ط ح ان ً ش ا ك ِ ع
إن ي ا ي ِ ث ه ى ُ ذعط ي ّ ان ظ ي ح ا ن ر ُ ف ي ذ ي ج .ي ج ر ي ا ن ث ت ط ه ف ا ن ً ظ ا د ه ح ت ا ن ظ س ج ن ش ج ل ي ج.
ان ً ا د ج 9

عند إ ر ا ء ي ا ح ان ِ س ي ط ي ح ذ ا ر و ض ي أ أ ن ً ح ك ً ح ا ر ي ع ي ر ُ ي و س ل ذ ع ت ا ن ُ ت ل ي ج ُ ا ل ي خ ِ ص ي ع ا
على أ ش ا ف ا ن ض ُ ا ع . ُ ي ح ن ه ِ س ي ط ي ا لأ ط ر ا ف ا ن ض ُ ا ع، الإع ت ر ا ع على ْ ز ا ل و ش ا س ي ا ن ً ش ج غ
ن ا ز ي إذ خ ز ِ في ي ا ح ث لا ث أ ي ا م ي ٍ ذ ا س ي خ ا ن ث ه ي غ.
و ذ و الإع ت ر ا ع ت ً ج ة إ س ر ر د ع ا ء ا ن ى ه ى ا ن ً ح ك ً ح ك ل ظ ك ي ّ في ش ف ك ح ا ن ر ً آ ل س ج بعد د ع ِ ج
ا ن خ ظ و . ُ ي ك ِ ّ ل ح ك ى ا ن ظ ا د ت ر ُ ي ج ج الإ ع ش ا ع غير خ ض غ لأ ي ط ش ي ق ي ِ ط ش م ا ن ط ع ٍ.
ان ً ا د ج 10
ث ُ ا و ل ش ج ا ن ِ س ا ط ح يلتزوان ِ س ي ط ي ا ل ش ه ا ت س ل ش ي ا ن ر ل ي ح ح ِ ل آ ل ا ن ط ش ُ ح ا خ أ ن ً ذ ا ُ ل ا ت ن ا ج ا س ي ج
خ ل ا ل ا ً.
إ ّ ع ً م ا ن ِ س ي ط ي و ي ت ن س ش ا ن ً ح ُ .و لا ي ح ق ن ّ في ح ا ل ي ر ت ك ا ل خ ُ ض ا ع أ ّ ف ن ي أ ي ا و ا ن ً ح ك ً ح ت ً ا
لاحظ ّ أ ت ً ا أ ث ي ر خ ل ا ل ا ن ِ س ا ط ح إ ل ا إ ر ا ُ ك ن آ ل أ ط ش ا ف ا ن ض ُ ا ع على ر ن ك، د ُ ّ أ ّ ي ج و ز ُ ل أ ي
س ث ة آ ا ّ ي ِ إ س ر ر ع ً ا ل ر ن ك في دعو ى أ خ ش ى.
ان ً ا د ج 11
خ ل ا ل ا ش ج ا ن ِ س ا ط ح، تعل ن ي ا ن ِ س و ِ ط و لا ذ ع و د ا ن ى ا ن س ر ي ا ّ إ ل ا ئ ر ا ء ا ن ِ س ا ط ح أ ي ُ ز ا و ض ا ء
ان ً ذ ج ا ن ً ح ذ ي ن ا.
ان ً ا د ج 12
لا ذ خ ا ر غ و ش ا س خ ا ن و ل ض ي ح ت ا ن ه ج ء ا ل ى ا ن ِ س ا ط ح أ ت ِ ل ى ا أ ت و م د ي ذ ن ذ ا ا ن ى أ ي ط ش ي ق ي ٍ ط ش م
ا ن ط ع ٍ إ ن ع ا د ي ج أ غير ا ن ع ا د ي ج

Annex II: Questionnaire

What is the nature of case backlogs in Lebanese courts?

How do you see the best way to deal with the backlog, speed of settlement and cost of legal transactions?

What do you think of the spectrum of ADR mechanisms?

What do you know about ADR programs and mechanisms in the US, Europe and the region?

How is informal ADR applied in settling cases out-of-court in Lebanon? What types of cases are settled (civil, commercial, and penal)?

Do lawyers/judges practice mediation/arbitration informally?

How do you see the application of ADR in Lebanon? What new laws will be required? Which mechanisms fit best the Lebanese legal structure? Culture? How are mediation, arbitration, neutral evaluation, mini-trial, settlement conference and other mechanisms viewed and understood?

In what sector is the need for ADR greatest? In what areas of Lebanon should ADR be applied?

Who should be the major stakeholders for ADR?

How ADR in Lebanon compare to the region (Morocco, Jordan, Bahrain, etc.)?

Where would an ADR project be housed? How would it be institutionalized?

What international initiatives have been there on launching ADR in Lebanon?

How do you see the role of international organizations? Donors? Government? Civil society? Other?

Annex III:

List of Interviewees

Johanna Hawari, Centre Professionnel de Médiation, Université Sain-Joseph
Georges Assaf, Lawyer, former head of the Institute of Human Rights, Bar Association
Julien Courson, Legal Aid Specialist, Mediator, Tripoli
Carla Kassis, Judge with the Court of Cassation
Joe Karam, Lawyer, activist
Navin Merchant, Head, ADR Unit at the International Finance Corporation (IFC)
John Azzi, Judge
Sami Mansour, HJC, JI
Ghassan Moukheiber, MP
Aline Matta, ABA
Joelle Cattan, BEMO Bank
Paola Chakhtoura, American Chamber of Commerce
Yassmine Tfaili, Lawyer
Kamal Abuzahr, Lawyer
Samir Jisr, MP, former minister of justice
Khalil Gebara, Prime Minister‘s Office
Lama Zaher, British Embassy
Michael Miller (informal chat), the EU Mission in Lebanon
Nabil Sari, Judge, Tripoli
Ghada Ibrahim, Professor of Arbitration and ADR
Commentators:
Mohamad El Darwish, Lawyer, Mediator and Vice-President of Consumer Protection Agency
Kamal Abuzahr, Lawyer, Arbitrator
Ziad Esper, Lawyer, Arbitrator/Mediator
Nedi Najjar, Lawyer, Arbitrator
Yassmine Tfaili, lawyer, Mediator

LEGAL AID ASSESSMENT

OUSSAMA SAFA

June 2010

ASSIGNMENT

This study was executed at the request of the National Center for State Courts for the purpose of better understanding the ―Legal Aid" procedures and current situation of prisoners who have benefited from it.

The tools employed to accomplish this task are the following:
- Gathering information about poverty ratios and living conditions on all Lebanese territories;
- Detailed information related to detention conditions, legal status of prisoners in the Lebanese prisons (mainly in Beirut district);
- A complete overview related to ―Legal Aid" acquisition, determining the weaknesses in the Lebanese judiciary system in order to comply with international human rights' norms and provisions.
- Survey determining the percentage of the prison population that is/was afforded a lawyerand that is aware of the right to be afforded legal services.

FOREWORD

Every person is entitled to obtain free justice freely. Yet, free does not only presumes the absence of bribes, but also a legal system where outcomes do not depend upon one's wealth. Legal aid is fundamental in a fair and decent society. It fulfills two roles: It has to be part of a sophisticated judicial system, and as a part of the welfare state. Thence, it contributes to the fight against social exclusion. This facility to access justice by the more disadvantaged and vulnerable in society is one of the hallmarks of a modern, egalitarian society.

However, just like the rest of the public sector, legal aid needs to live within a finite budget for it is provided by the government and funded by the treasury (Judicial legal aid). Therefore, the civil society plays a more prominent role, day after day, to improve human livelihood conditions and well-being.

The state of facts in Lebanon suggests the need to enhance and reform the legal aid provisions; indeed, two indicators are subject to heeding to better perceive the severity of the problem: poverty level and prison population.

The current assessment sheds the light on those two indicators, suggesting the requisite measures for a better effectiveness of the legal aid scheme.

Oussama Safa

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CHAPTER ONE
POVERTY AND INCOME

CHAPTER ONE- POVERTY AND INCOME

Lebanon is divided geographically into six governorates (Mohafazat), including districts (Caza). The Chart below illustrates the percentage of population per governorate[22].
The population is approximated to 4,125,247 (July 2010 estimation)[23]. And compared to the world population, Lebanon is ranked 127. In addition to Lebanese citizens, Lebanon was host to over 375,000 refugees and asylum-seekers[24]: 270,800 Palestinians, 50,000 from Iraq and 4,500 from Sudan. Lebanon forcibly repatriated more than 300 refugees and asylum seekers in 2007.

Given the challenges Lebanon faces to foster economic growth, there is a pressing need for a legal environment conducive to foreign investment. Government debt stock is estimated at LL 77,019 billion (U.S.$51.09 billion), or 148% of GDP[25].

To monitor the poverty rate and income levels, this study is based on the report *"Poverty, Growth and Income distribution in Lebanon"*, which is the product of collaborative work between the Ministry of Social Affairs, the Central Administration of Statistics, the United Nations Development Programme (UNDP) and the World Bank; it was published in August 2008.

This report provides a profile of poverty in Lebanon based on money-metric poverty measurements of household expenditures. It allows a comprehensive overview of the characteristics of the poor and estimates the extent of poverty and the degree of inequality in the country.

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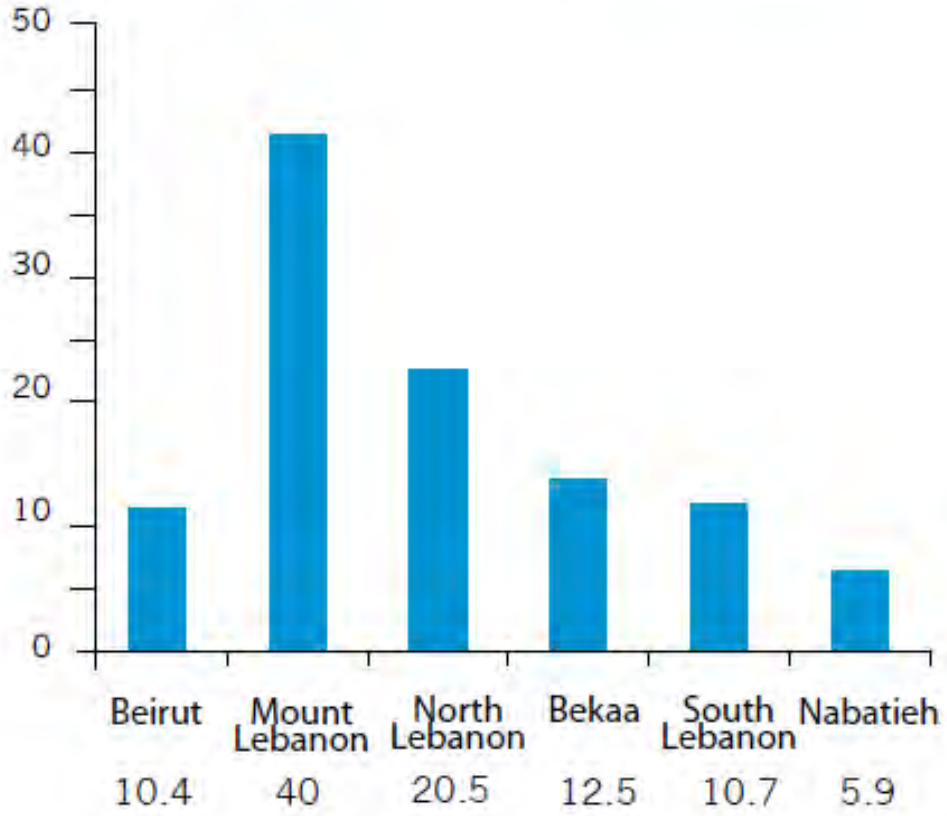
[22]Central Administration for Statistics, March 2007.
[23] Country fact sheet, estimation published by the US Central Intelligence Agency, https://www.cia.gov/library/publications/the-world-factbook/geos/le.html
[24] *"World Refugee Survey 2008"*, US Committee for Refugees and immigrants. Figures are provided for the year 2007.
[25] Based on Country Profile published on the 1st of March 2010, by the Lebanese Ministry of Finance, http://www.finance.gov.lb/NR/rdonlyres/7D53223B-BD76-445C-A2B1-9C8CA3C13595/0/2010LebanonCountryProfile.pdf

Distribution of residents by governorate (%)

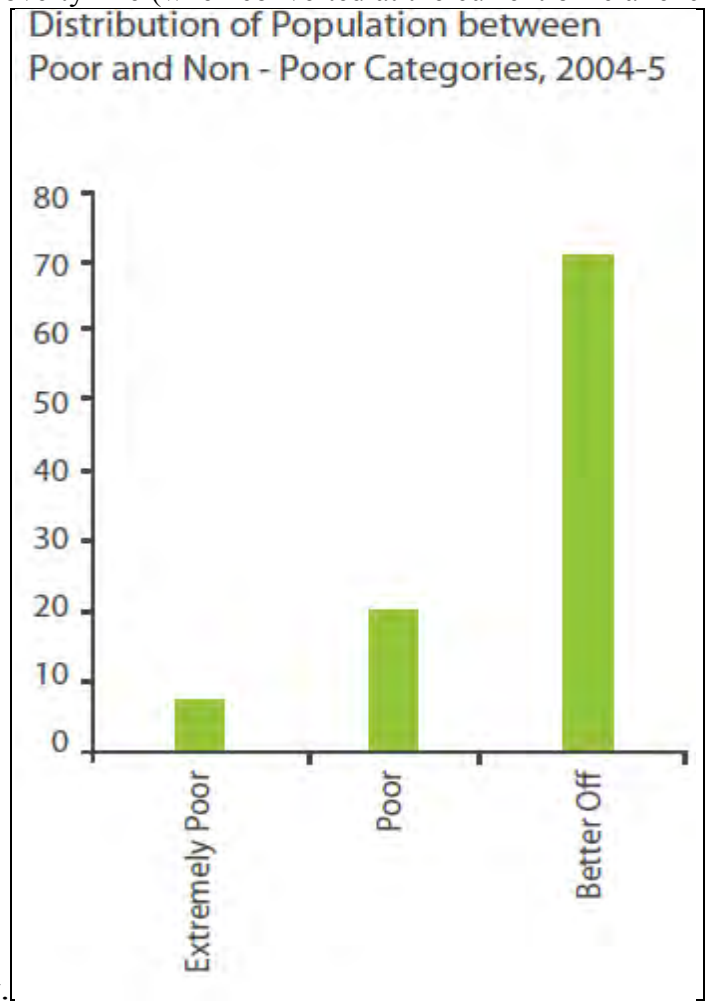


I- POVERTY

A family is classified as poor if its total earnings are less than its poverty line.

A- Poverty distribution by governorate

Nearly eight per cent of the Lebanese population live under conditions of extreme poverty (i.e., below the _lower‘ poverty line)(See chart below). This implies that almost 300,000 individuals in Lebanon are unable to meet their most basic food and nonfood needs. The dollar equivalent of the lower poverty line (when converted at the current official exchange rate) is US$ 2.40 per capita per day.



The most important finding is that regional disparities are striking. In general, the North governorate has been lagging behind the rest of the country and thus its poverty rate has become disproportionately higher than the average for Lebanon. Levels of poverty are above-average in the South and Bekaa[26].

There are significant differences in poverty within the North: Tripoli City and Akkar/Minieh-Dennieh strata have the highest percentages of extreme and overall poverty.

[26] *"Poverty, Growth and Income distribution in Lebanon"*, op. cit. chapter four, p.77

On the other hand, ―Koura/Zgharta/Batroun/Bsharreh" strata (which are also located in the North governorate) have a relatively low poverty rate (4.5% extreme poverty and 24.7% overall poverty).

The bulk of poverty is concentrated in four strata: Tripoli City, Akkar/Minieh- Dennieh, Jezzine/Saida and Hermel/Baalbek.

These regions account for half of the entire poor population (two thirds of the extremely poor) while only constituting one third of the population.
Substantial disparities have been identified between peripheral and central regions of the country, thus, the geographical distribution is as critical as understanding the global ratio of poverty as a whole.

Poverty rates are comparatively insignificant in Beirut, the capital. It is estimated below 6%, while the North constitutes 53% of overall poverty, the Bekaa 29%, the South 22% and 20% poverty rates in Nabatieh and Mouth Lebanon

B- Affected sectors

With regards to the impacts of poverty on various economic sectors, the poor are concentrated among unemployed yet skilled workers, in sectors such as agriculture and construction. Facts indicate that youth category with university degrees are struggling to break the poverty cycle as well; in fact, the unemployment rate for non-poor university graduates, holding a secondary degree, is half the rate for extremely poor university graduates.

II- INCOME

The differences in welfare levels between governorates are highly associated with deprivation in other socio-economic variables in Lebanon. Deprivation in satisfaction levels for living conditions varied from 7.26% in North governorate to 0.36% in Beirut, when very low level of satisfaction is considered and from 46.6% in South governorate to 9% in Beirut, when both very low and low levels of satisfactions are taken into accounts.

While per capita consumption, as a money metric of welfare, is reflected perfectly well in governorates of Beirut, Mount Lebanon and the Bekaa, deprivation in living conditions lagging behind per capita consumption levels in the South governorate, contrasting with the North governorate where deprivation in money metric welfare is larger than living condition deprivation. **The North governorate is the most deprived governorate in fields of education, health and economic condition of household, while the South is the worst governorate in terms of housing and basic amenities deprivations**[27].

In 2004-5 per capita consumption was highest in Beirut; at one and a half times the national average and lowest in the North, at only three quarters of the national average and about half that of Beirut. Governorates of the North, South and Bekaa had per capita real consumption, nominal consumption and expenditure at levels below the national average while Nabatieh stood approximately at the national average. Per capita consumption for the North is the lowest, representing only 60 per cent of the national average. Median per capita is always lower than mean per capita, indicating skewed distribution towards the lower end[28].

A- Income Distribution

It is now widely accepted that consumption is a better measure of welfare than income. Consumption estimates here include expenditures on food and non-food items. It also includes both cash and in-kind consumption.

Households impute the value of home produced goods, which is then included in the total expenditure. The total consumption also includes the imputed rental value of owner-occupied houses[29].

Unequal distribution of expenditure among the Lebanese population is also remarkable. The poorer 20% of the population accounts for only 7% of all consumption in Lebanon. On the other hand, the richest 20% of the population account 43% of consumption. In terms of expenditure levels, the northern district is outstandingly way below the poverty line.

Studies showed that households in the north with a similar set of characteristics to households in Beirut are four times more likely to be poor. The northern regions have experienced the most significant decline in expenditure over the last 10 years, while Beirut, the South and Bekaa regions recorded improvements in their expenditure.

With a more _normal‘ definition of the poverty line, namely, what the World Bank refers to as the _upper‘ poverty line, the overall headcount poverty ratio reaches 28.5 per cent (accounting for about one million Lebanese). Consequently, the consumption levels for 20.5 per cent of the Lebanese population fall between the lower and upper poverty lines. At the current exchange rate, the upper poverty line translates into about US$ 4 per capita per day.

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[27] See Appendix 1

[28] See Appendix 2

[29] See Appendix 2

B- Regional Disparities

The distribution of extreme and overall poverty rates across governorates in 2004-5 lead to the main findings that can be summarized as follows:

• A very low prevalence of extreme poverty (below 1%) and overall poverty (below 6%) in Beirut;
• A low prevalence of extreme poverty (2-4%) and a below-average prevalence of overall poverty (close to 20%) in Nabatieh and Mount
Lebanon;
• A higher-than-average prevalence of extreme poverty in Bekaa and the South (10-12%), an average prevalence of overall poverty in Bekaa (29%) and a higher- than-average prevalence of overall poverty in the South (42%).
• A very high prevalence of extreme and overall poverty in the North (18% and 53% respectively).
• Although per capita consumption in Nabateih is very close to the national average, it is more equally distributed than in other regions so that the governorate‘s poverty rate, i.e., 19%, is far below the national average.
• Not only do poor households in the North governorate represent large proportions of their population, but also their expenditure levels, on average, are far below the poverty line. Thus their per capita poverty deficit is 2.4 times higher than the average across all of Lebanon. Moreover, the share of the North governorate in overall poverty increases when distribution-sensitive measures are used, reflecting the low standards of living of the poor in this region.

III- CONCLUSION

… related to Poverty

Poverty reduction takes place through increasing the opportunities of the poor to be employed more intensively, efficiently, and remuneratively.

• Encourage the formalization of enterprises and employment through reforming regulations by reducing their costs and facilitating their establishments‘ procedures.

• Adjust wages periodically (especially the minimum wage) in light of the evolution of inflation and labor productivity. The percentage increase would be higher for the lower wage brackets, but would remain under a certain ceiling to be set.

• Regulate the flow of foreign low-skill workers (especially in the fields of agriculture and construction works), which would increase the opportunities of local workers‘ employment as well as raise the level of real wages.

• Focus assistance on promising sub-sectors which have the opportunity to grow and provide the highest added value in income and job creation (improving the macro business and fiscal environment, access to information, and improvement of regulations).

• Combine overall assistance to the sub-sectors with coherent intervention programs for entrepreneurs and employees (access to information, technical assistance, know-how, training, etc. especially targeting the poor youth).

• Give more attention to female-run enterprises, especially that a noticeable increase in such enterprises has been observed since the year 2000. (Women earn less; their enterprises have less access to earnings and profit; perform less; have lower added-value; and have less access to assets and resources).

• Increase the access of SMEs[30] to financial resources, both for initial start-up of businesses and for expansion, with focus on increased working capital rather than real estate. (Ensure increased access to small credit, both through formal banking or NGOs).

…related to Legal Aid

Difficulties in acquainting legal representation are substantially related to income rate, whether for the working stratum or dependents in accordance with the income rate of Lebanese families. Therefore, it is a necessity to diagnose the problem of legal aid accessibility with respect to poverty scheme.

Poverty related dilemmas include:

- Working people lose their jobs every day,
- Women and children are abused and forced to seek protection
- Low income people cannot access convenient legal representation
- Many low income households experience legal problems, yet have no access to legal aid, or are not adequately informed of such[31], or are provided with inefficient legal aid[32].
- Domestic violence survivors have the highest number of needs of any segment of the low income population.

[30] Small and Medium Enterprises.

[31] See survey at the end of the current study.

[32] The Bar Association provides legal aid performed by trainees and for very low remuneration.

In final analysis, it is requisite to provide legal aid to all citizens with no exception and at all stages, starting from investigation procedures to court trials, regardless of the poverty ratio of families. Though, any proceeding that has not been bound by this requirement ought to be nullified and those who are responsible must be held accountable. Therefore, a legal reform is highly recommended in order to cope with fair trial standards, and legal aid provided by the state ought to be mandatory by law, to the benefit of all defendants, in any crime committed and before all courts.

CHAPTER TWO
PRISONS IN LEBANON

CHAPTER TWO- PRISONS IN LEBANON

Prison Brief for Lebanon[33]

Country	**LEBANON**
Ministry responsible	**Ministry of the Interior (to be transferred to the Ministry of Justice in due course)**
Prison administration	**Prison Division of the Lebanese "Gendarmerie" (also known as "Darak")**
Contact address	**Lebanese Internal Security Forces and "Gendarmerie" Headquarters in Beirut, Near Hotel Dieu Hospital, Ashrafiyeh, Beirut**
Telephone/Fax	Tel: **+961 1 422000 and +961 1 425250**Fax: **+961 1 427775**
Head of prison administration (and title)	**General Antoine Shakkour/ Police Brigadier General-ISF[34]**
Prison population total (including pre-trial detainees / remand prisoners)	**6015** (national prison administration)
Prison population rate (per 100,000 of national population)	**150.4** based on an estimated national population of 4 million
Pre-trial detainees / remand prisoners (percentage of prison population)	**68.4%**
Female prisoners (percentage of prison population)	**5.4%**
Juveniles(percentage of prison population)	**2.6%**
Number of establishments / institutions	**30** (22 penal institutions, of which 2 are for juveniles, 7 holding cells and 1 reformatory institution administered by the **Union for Protecting Childhood in Lebanon (UPEL)**)
Official capacity of prison system	**4,800** (As Maximum capacity. Minimum capacity is 4,113)
Occupancy level	**124.6%[35]**

[33] Figures provided by Prison Division- Internal Security Forces on the 15th of June 2010/ Chart No. 204 F7 (See Appendix 3)

[34]According to Decree No. 14310, 12/2/1949.http://www.al-akhbar.com/ar/node/163221

[35] This is the average occupancy level of all prisons based on official capacity. Noting that overpopulation varies between 4% and 340.6% (See overpopulation section below).

I- FACTS

There are twenty-two prisons in Lebanon and seven holding cells under the administration of the Internal Security Forces (ISF). As for the Juvenile Reform Center in Fanar, it falls under the administration of the Union for Protecting Childhood in Lebanon (UPEL)[36].

A- Prisons per governorate[37]:

a- Mount Lebanon and Beirut:

- The central prison of Roumieh: includes a cellblock for convicted prisoners (Bloc A), a cellblock for detainees (Blocs B and D), and a cellblock for juvenile prisoners (Bloc C). In addition to a special wing for mentally ill prisoners who have been already convicted to imprisonment and suffering from mental illness[38].
- Baabda prison for women, Dahr el-Bashek for female delinquents, Aley and Jbeil.
- Barbar el-Khazen ISF barracks for women in Beirut.

b- North:

- Tripoli, Halba, Zgharta, Amyoun and Batroun.

c- Bekaa:

- Zahleh, Jebjennine, Baalbeck, RasBaalbeck, Rashaya and Zahleh prison for women.

d- South:

- Nabatieh, Tyr, Tebnin and Jezzine.

As for the holding cells, they are located in the Palace of Justice of: Baabda, Beirut, Tripoli, Zahleh, Baalbeck, Sidon and Nabatieh.

B- Prison Population:

In this section, we examine the prison population and the conditions of detention in terms of the population ratio[39].
The following tables indicate the total number of inmates, divided into subgroups[40].

a- Prisons for Men

	Maximum	Number	Number	Maximum	Actual

[36] This study excludes the Detention Center of the Ministry of National Defense- Yarzeh because of the lack of information due to the prohibition of access to such information. All categories of detainees can be held in this center, i.e. women, men, minors, convicted, detainees.
[37] Source: Commander in Chief Antoine Shakkour, ISF, lecture given at House of Lawyers on the 26th of March 2009.
[38] Established by Decree nº 6164 dated the 23rd of December 1994.
[39] Source: Internal Security Forces (IFS) database.
[40] Figures provided by Prison Division- Internal Security Forces- Op. cit.

Prisons	Sentence	of Detainees	of Convicted	Capacity	Population
Roumieh	Life imprisonment	2600	1078	3000	3678
Jbeil	6 months		25	24	25
Aley	One year	3	44	62	47
Tripoli	Life imprisonment	375	169	550	544
Halba	One year		84	75	84
Batroun	2 years		36	45	36
Zghorta	6 months	42	4	56	46
Amioun	One year	36	12	50	48
Jezzine	6 months		20	55	20
RasBaalbeck	6 months		59	55	59[41]
Tyr	4 years	0	62	68	62
Nabatieh	2 years	73	21	34	94
Tebnin	6 months	57		59	57
Zahleh	6 years	303	62	115	365
Baalbeck	6 years	60	24	45	84
Jibjennine	3 years	54	28	71	82
Rashaya	2 years	0	52	50	52
Total		**3603**	**1780**	**4414**	**5383**

b- Prisons for Women

Prisons	Maximum Sentence	Number of Detainees	Number of Convicted	Maximum Capacity	Actual Population
Baabda	Life imprisonment	53	14	50	67
Barbar el-Khazen ISF barracks	Life imprisonment	32	29	n/a	61
Tripoli	Life imprisonment	87	54	32	141
Zahleh	6 years	43	10	34	53
Total		**215**	**107**	**116**[42]	**322**

c- Reformatory Institutions

Prisons	Maximum Sentence	Number of Detainees	Number of Convicted	Maximum Capacity	Actual Population

[41] Numbers in yellow have been adjusted according to the total number of prisoners.

[42] This number is not accurate due to the lack of information of the total capacity in Barbar el-Khazen ISF barracks.

Fanar Juvenile Reform Center	n/a	16	3	n/a	19

d- Juvenile Prisons

Prisons	Maximum Sentence	Number of Detainees	Number of Convicted	Maximum Capacity	Actual Population
Roumieh	Life imprisonment	137	10	270	147
Dahr el-Bashek (females)	n/a	11	n/a	n/a	11
Total		**148**	**10**[43]	**270**[44]	**158**

e- Holding Cells

Prisons	Maximum Sentence	Number of Detainees	Number of Convicted	Maximum Capacity	Actual Population
Baabda Palace of Justice	-	37	-	n/a	37
Beirut Palace of Justice	-	3	-	n/a	3
El-Helou ISF barracks	-	-	-	n/a	0
Tripoli Palace of Justice	-	33	-	n/a	33
Zahleh Palace of Justice	-	14	-	n/a	14
Baalback Palace of Justice	-	9	-	n/a	9
Sidon Palace of Justice	-	24	-	n/a	24
Nabatieh	-	13	-	n/a	13

[43] Not accurate, same as above.
[44] Not accurate, same as above.

Palace of Justice		
Total	**133**	**133**

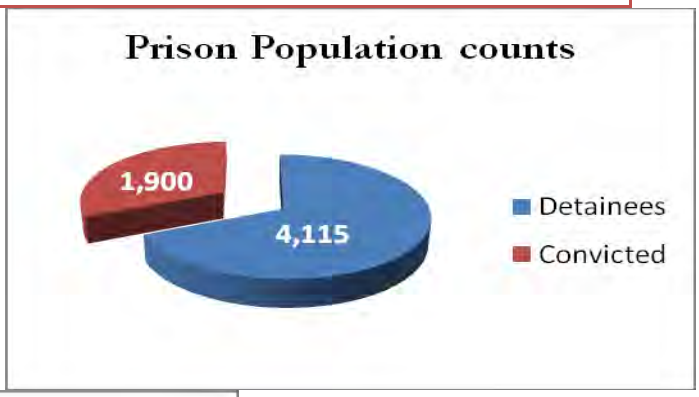
II- Analysis

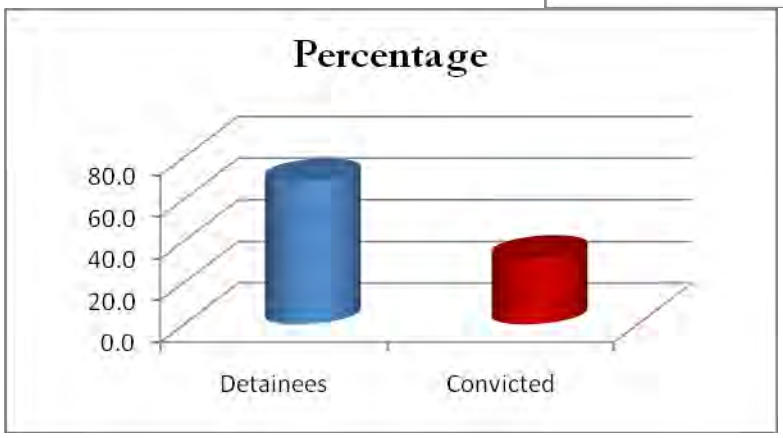
Prisons in Lebanon have always been described as ―overcrowded". The large number of incarcerated persons is due to the deceleration in pronouncing the final verdict by the courts and mostly because of the lengthy procedures in lawsuits process. This can be observed by comparing the number of detainees with the number of convicted[45].

A- Prison Population counts

The total number of inmates is 6,015 prisoners, while the maximum capacity is for 4,800 prisoners.

	Number of Prisoners	Percentage
Detainees	4,115	68.4%
Convicted	1,900	31.6%
PrisonPopulation	6,015	100.0%





[45] Population rate of detainees is 68.4% of the total number of prison population.

B- Prison population counts- detailed chart

	Detainees	Convicted	Prison Population
Men	3,603	1,780	5,383
Women	215	107	322
Reformatory	16	3	19
Juvenile	148	10	158
Holding	133		133
Grand total	**4,115**	**1,900**	**6,015**

C- Percentage of detainees and convicted inmates- category focus

	Number of Detainees	Number of Convicted	Prison Population
Men	3,603	1,780	5,383
%	**66.9**	**33.1**	**100.0**
Women	215	107	322
%	**66.8**	**33.2**	**100.0**
Reformatory	16	3	19
%	**84.2**	**15.8**	**100.0**
Juvenile	148	10	158
%	**93.7**	**6.3**	**100.0**
Holding	133		133
%	**100.0**		**100.0**
Total	4,115	1,900	6,015
%	**68.4**	**31.6**	**100.0**

D- Percentage of detainees and convicted inmates- population focus

	Number of Detainees	%	Number of Convicted	%	Prison Population	%
Men	3,603	**87.6**	1,780	**93.7**	5,383	**89.5**
Women	215	**5.2**	107	**5.6**	322	**5.4**
Reformatory	16	**0.4**	3	**0.2**	19	**0.3**
Juvenile	148	**3.6**	10	**0.5**	158	**2.6**
Holding	133	**3.2**		**0.0**	133	**2.2**
Total	4,115	**100.0**	1,900	**100.0**	6,015	**100.0**

E- Overpopulation Ratio

	Number	Percentage
Maximum Capacity	4,530	100.0%
PrisonPopulation	5,644[46]	124.6%
Overpopulation	**1,114**	**24.6%**

Although the global overpopulation ratio indicates 24.6%, yet, it reaches 340.6% in the Tripoli prison for women.

Overpopulated Prisons

Prisons	Gender	Overpopulation	Percentage
Tripoli	Women	109	340.6%
Zahleh	Men	250	217.4%
Nabatieh	Men	60	176.5%
Baalbeck	Men	39	86.7%
Zahleh	Women	19	55.9%
Baabda	Women	17	34.0%
Roumieh	Men	678	22.6%
Jibjennine	Men	11	15.5%
Halba	Men	9	12.0%
RasBaalbeck	Men	4	7.3%
Jbeil	Men	1	4.2%
Rashaya	Men	2	4.0%

F- Foreign Prisoners beyond their sentences[47]

	Number of Prisoners	Convicted	Percentage from convicted	Percentage from total population
Detainees	4,115			68.4%
Convicted	1,900	1,627	85.6%	27.0%

[46] The total number of prison population in this section is different from the actual total population, this is due to the lack of information on the maximum capacity of some of the prisons, therefore, the number of prisoners adopted to calculate population ratio is the one related to the prisons where maximum capacity is available.

[47] Source: Prison Division- Internal Security Forces (ISF), figures provided on the 10th of June 2010.

Foreign prisoners beyond their sentences	n/a	**273**[48]	**14.4%**	**4.5%**
PrisonPopulation	6,015			100.0%

G- Foreign Prisoners beyond their sentences- Gender focus

	Number	Percentage
Women	76	27.8%
Men	197	72.2%
Total	273	100.0%

H- Nationalities and Gender of Prisoners beyond their sentences[49]

The total number of foreign prisoners who have executed their sentences and are still incarcerated is 273[50].
Number of Women: 76
Number of Men: 197

Nationalities in Alphabetic order

African: 1	**Indian: 18**	**Pakestani: 1**
Algerian: 1	**Iraqi: 29**	**Sri Lankan: 27**
Bahraini: 1	**Jordanian: 8**	**Sudanese: 71**
Bangladeshi: 30	**Kuwaiti: 1**	**Turkish: 4**
Chadian: 3	**Madagascan: 1**	**Ukrainian : 2**
Egyptian: 49	**Moroccan: 3**	**Yemeni: 1**
Ethiopian: 1	**Nepalese: 1**	
Filipino: 19	**Nigerian: 1**	

[48] This number is related to foreign prisoners who have been convicted and remain imprisoned beyond the execution of their sentences.
[49] See detailed table (Appendix 4)
[50] ISF database (Appendix 5)

III- CONCLUSION

…related to Prisons in Lebanon

There is no doubt that Lebanese prisons suffer from overcrowding problems, leaving a negative impact in many aspects:

1- Obstruction of justice
2- Hygiene and health status
3- Security status
4- Ethics and moral status
5- Financial costs covered by the society

The solution can be made through various measures:

1- Reform in procedural laws.
2- Expanding the judicial corps through increasing the number of judges.
3- Taking the prisoners‘ behavior into consideration for reducing penalties.
4- Considering a year in prison as nine months instead of twelve months.
5- Rehabilitation and focus on assistance and counseling during the last months of detention in order to rehabilitate and reintegrate the prisoner in his or her family, society and working environment.
6- Non-custodial measures, this is a new trend in the world based on a new philosophy, i.e. the prison is a place for correction and not for punishment. A sentence can be executed outside the prison premises.

…related to Legal Aid

It is clear that overpopulation in Lebanese prisons is mostly due the inaccessibility of adequate legal representation, in addition to the slow trial proceedings sometimes taking years before appointing trial hearings, and in certain cases even exceeding imprisonment sanctions. Notwithstanding, that the non-providence of legal representation, due to the financial situation depicted in chapter one of the current study, hinders early sessions of several trials which are postponed in order to enable such a representation. Under these circumstances, the number of prisoners waiting for their trials would be increasing. And that is another reason for the overpopulation of prisons in Lebanon.

ATTACHMENT 5

CHAPTER THREE
LEGAL AID

CHAPTER THREE- LEGAL AID

Introduction

The right to acquire a fair trial and access to justice is a debatable issue in Lebanon. Many factors contribute in this factual situation. Therefore, identifying the problem might be the first step towards extracting the adequate solutions. The manifest evidence of the severity of this problem is the overpopulation in Lebanese prisons.[51] High court costs, shortage of judges causing an increasing backlog of cases and consequently delays in handling cases and the large number of population in need for legal assistance[52] are among the factors conducing to the actual situation. Moreover, the right to be represented by a lawyer is not available for all; in fact, the judicial legal scheme deficiencies are multiple[53], it sets an exceptionally high threshold for qualification: only the unemployed are eligible for legal aid grant.

However, the social society is highly active in this domain. Several non-governmental organizations provide legal assistance to vulnerable individuals according to specific criteria determined by NGO regulations, in favor of specific category of individuals and with regards to the field of operation in which the NGO is involved.

A- Judicial Legal Aid

The Lebanese Code of Civil Procedure regulates the legal aid assignment in Articles 425 to 441. It aims at assisting those who are unable to bare court fees and legal representation by a lawyer before the court. Accordingly, the legal aid, when granted, covers all procedures of the lawsuit, until the issuance of an enforceable copy of the court judgment[54].
Decree No. 655 of 1921 established two Bar Associations in Lebanon, one in Beirut and the other in Tripoli.
The Bar Association created a Legal Aid Committee in 1993 to provide legal representation for the indigent in civil and criminal cases. The existing scheme is funded by the Bar, however the available resources are limited.

a- Conditions

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[51] The overpopulation in Zahleh prison for women reaches 340.6%- See Chapter Two of this study.
[52] Nearly 8% of the Lebanese population live under conditions of extreme poverty (below the "lower line" of poverty)- See Chapter One of this study.
[53] The CPP stipulates that when the defendant is not legally represented before the Criminal Court, the Court is under the obligation to request from the Bar Association to assign a lawyer for the defendant. The Code is however silent on the procedures to obtain free legal aid before the Unique Criminal Judge. According to Art. 6 of the Code of Civil Procedures (CCP), the provisions of this Code apply to other proceedings (such as criminal proceedings) whenever there is a silence or void. This Code regulates the assignment of free legal aid in its Articles 425 to 441. Defendants who are unable to cover the court fees are entitled to request free legal aid from the court which decides upon the request. If the court decides to grant the defendant free legal aid, it informs the Head of the Bar Association who assigns a pro-bono lawyer to the defendant. (CCP, Legislative Decree No. 90 of 16/9/1983 as amended by Law No. 440 of 29/7/2002, published in the official gazette No. 40 of 6/10/1983).
[54] *"Fees, Expenses and the legal aid"* AfifShamseddin and John Azzi, first edition, Beirut 2009 p.121.

According to Art. 426 of the Code of Civil Procedure, every person is entitled to for a legal aid grant, even juristic person, provided that these latter would be non-profit institutions, have their main siege in Lebanon and their financial situation does not permit them to afford the lawsuit. As for non-Lebanese persons, legal aid grant is bound by reciprocity principle.

There are two conditions to grant the legal aid:
1- The applicant shall be unable to assume court fees,
2- The applicant must not appear to be abusing the right to legal action.

The indigent applying for legal aid must present supporting documents for his allegement: a certificate of revenues from the treasury department of the Ministry of Finance stating the direct taxes he/she had paid, in addition to a certificate from the local authority confirming his/her state of poverty[55].
Although there is no template specimen for the application form, and it can be presented in any form, the Bar Association may offer the applicant a form to fill[56].

b- Legal effects

After the legal aid has been approved by the judge, the beneficiary will be exempted from court expenses and fees and will have a lawyer assigned to defend him/her with no charges. The decision of the judge is then notified to the president of the Bar Association. A lawyer will be appointed to represent the recipient (Art. 433, CCP). The appointed lawyer works *pro bono*, and receives no remuneration from the recipient, although the Bar Association pays him a nominal amount in return for his work.[57] Any attempt to receive money from the recipient, the lawyer will be subject to pursue for behavioral offense.
On the other hand, the recipient will be exempted from trial expenses. Consequently, all fees and expenses, including appointment of experts, will fall upon the treasury (Art. 435, CCP).

c- Trial expenses

According to Article 540 CCP, the trial expenses include:
1- The judicial fees provided by the law, in a proportional rate or fixed sum, for bringing the suit and passing, notifying, appealing and executing the judgment, according to the rules provided in the judicial fees law.
2- The expenses for proceedings and investigations, such as experts‘ fees, witnesses charges, the expenses of the movement of the court for examination… etc.

d- The petition for judicial legal aid

1- In civil cases
The demand of the judicial aid is submitted in three copies, exempt from all fees and expenses, to the registry of the competent court, with a certificate confirming the financial deficiency of the petitioner, issued by a local authority, and another certificate issued by the departments of revenues and treasury at the Ministry of Finance (General Department of Finance) stating the direct taxes paid by the petitioner (Art. 429 CCP).

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[55] Even with the documents duly enclosed with the petition of legal aid grant, the judge will always have a discretionary capacity to grant the legal aid or not.
[56] See Form 1 and 2 (Appendices 6 and 7).
[57] This amount is 100$.

Once the demand is submitted, the second copy is sent to the Public Prosecution who shall give his opinion within five days, and the third copy is sent to the other opponent who is entitled to give his opinion within five days as well (Art. 428 CCP).

Subsequently, the court summons the petitioner and his opponent to a session held at the deliberation room. Then the court examines the demand and the conditions of acquisition. This decision taken by the court is notified to the opponents and the Public Prosecution (Art. 432 CCP). The decision of the court – whether positive or negative- is not subject to appeal.

2- In criminal cases

The procedures in criminal cases are different from civil cases' procedures. Once the detainee declares his will to appoint a lawyer to defend him, the court notifies the head of the Bar, or the chief commander of the prison where the detainee is arrested notifies the head of the Bar.
The demands are transferred afterwards to the Committee of Judicial Aid. The committee shall examine them and suggest the names of the lawyers who shall defend the suspects. These names are submitted to the head of the Bar to communicate the assignment decision.

General inputs

• In terms of overall case management procedures, delays are cited as routine, with notice of hearings often reaching parties after the date scheduled for hearing.

• According to the World Bank, in 2003 "access to justice in Lebanon is in a crisis due to the limited availability of legal aid and public defenders programmes, high court costs, and large sectors of the population in need of legal representation".[58]

• According to the latest findings on the level of poverty in Lebanon, a large number of Lebanese live under the 'lower' line of poverty[59]. None of these persons would be eligible for legal representation under current guidelines.

• Migrant workers do not have access to the courts because they also do not qualify for legal aid under government laws. Inexpensive foreign labor is relied upon in the construction sector and for the provision of domestic help. It is estimated that there are 200,000 – 500,000 Syrian laborers working in Lebanon. A 1998 estimate of Sri- Lankans in Lebanon, almost exclusively women working as domestic help, was 100,000. These numbers are significant in a country of less than four million people. Absent physical abuse, the most common problem facing migrant workers is their dependence on the good behavior of employers rather than on adequate protection in the legal system. Where migrant workers do come into contact with the courts, many are at a disadvantage because they do not understand Arabic or French. Migrant workers represented 55-60% of the legal aid and representation scheme recipients in the past several years granted by international NGOs.

•The Bar Association has less funding for representation in civil cases than in criminal cases. It estimates that approximately 5% of the legal representation that it provides is for civil cases. Lawyers take cases on a *pro bono* basis. The Bar provided assistance in approximately 3,000

[58] See World Bank: "Lebanon – Legal and Judicial Sector Assessment, June 2003".
[59] See Chapter One of this study.

criminal cases in 2000. In 2003 it is estimated that the number will be 1,000-2,000 due to a lack of funding.

• The Legal Aid Committee at the Bar Association, headed by lawyer Suleiman Lebbos, provided legal aid for petitioners in 372 cases in 2005, 503 cases in 2006, 788 cases in 2007[60] and 525 in 2008[61].

B- Civil Society

There are hundreds of civil society organizations in Lebanon working in the areas of the environment, health, disability, human rights, culture, economic development, and other fields. There is limited civil society participation, however, in the legal and judicial sector. With few exceptions, the Government does not actively involve stakeholders through civil society organizations, which could increase accountability and momentum for reform. Several civil society organizations are active in the area of access to justice, and sometimes work in conjunction with the Bar Association.

Through inciting the government as well as the parliament into a challenge to enforce Lebanon‘s obligations under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and other international conventions, NGOs have been very active on this ground.

The Human Rights Institute of the Bar Association is active in the areas of human rights training and awareness raising related to Lebanon‘s obligations under international instruments. Several training programmes for NGOs train their staff to abide by the standard of treatment for prisoners, attempting to bring a regional focus on mistreatment and torture during interrogation.

The Lebanese League of Women‘s Rights works to raise women‘s awareness of their rights under Lebanese and international law, to advocate changes to Lebanese laws affecting women, and to undertake studies on issues affecting women. Lawyers that are members of the League provide free advice on issues related to family law, divorce and domestic violence. Requests for legal representation, which generally involve domestic abuse and/or divorce, are referred to the Bar Association for assistance.

The Lebanese Council to Resist Violence Against Women also provides limited legal representation for women facing abuse and seeking restraining orders and/or divorces. The Council also maintains a hotline for women in domestic violence situations.

To sum up, non-governmental organizations engaged in providing legal aids for individuals, operate in Lebanon under two categories:

a- National NOGs[62]

These institutions are mostly involved in providing legal assistance to some vulnerable categories of the society, such as children and maltreated women.

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[60] During this year, armed conflicts erupted in Nahr el-Bared in Northern Lebanon, between the Lebanese Armed Forces and Fath el-Islam, a terrorist faction, causing this increase of petitions.
[61] http://www.al-akhbar.com/ar/node/128046
[62] A list of some NGOs is provided at the last pages of this assessment.

b- International NGOs

International NGOs focus mostly on providing legal assistance to refugees and people seeking asylum.

Conclusion

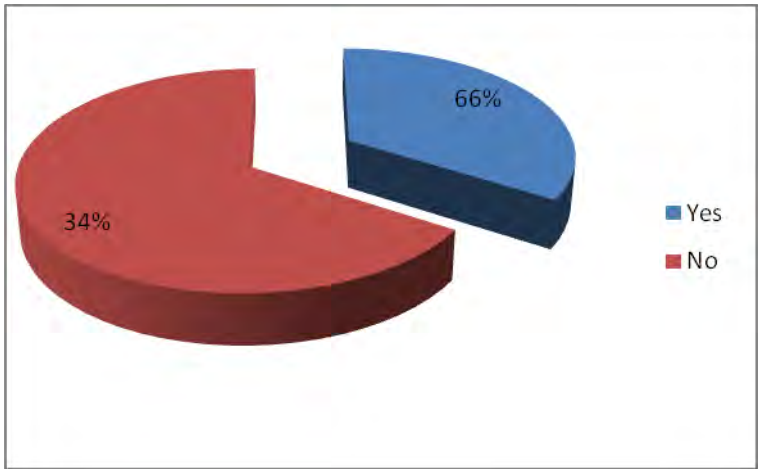
Civil Society participation in the legal and judicial sector, including input on legislation, access to justice, policy development, and judicial selection would have a positive impact on reform efforts. Several interviews were conducted in order to acquire the information listed in this chapter; some of the information were received by email request, while others were conducted by phone with the representatives of the sus-mentioned NGOs.

RECOMMENDATIONS

In order to deduce the convenient and effective recommendations, a survey was conducted in one of the largest prisons in Lebanon, the prison of Roumieh, emphasizing the actual status of legal aid assimilation and knowledge by prisoners.[63]

The survey shows that only 34% of detainees had knowledge of their right to acquire a lawyer.

Knowledge of the right to obtain a lawyer



Yet, after being arrested, only 6% of detainees were given information of their right to obtain free legal aid from a lawyer at the police station, and 46% of the detainees are informed of their right to contact a lawyer before proceeding with the investigation at the police station.

The survey also indicated that 84% of the prisoners have been asked by the judge of their desire to acquire a lawyer.
The results are overwhelming. The gap between the perspectives of legal representation is very wide between police stations on the one hand, and at the court on the other hand. Thence, it falls under the interests of investigators to proceed with interrogations without the presence of a lawyer at the sides of the detainee, even if it is a mandatory requirement. While at the court, the first thing a judge asks whether the prisoner is willing to appoint a lawyer or else the court will appoint one for him.
Consequently, the recommended measurements for enhancing legal representation, and eventually legal aid, ought to begin at the arrest stage more than at the court. It must be notes that in most cases when the judge does not raise the legal representation issue, the prisoner appears to be already represented by a lawyer, or demands a postponement of the session in order to do so.

In the purpose of enhancing legal aid, several maneuvers must be put into action, including the global judicial system reform based on prioritization. Such reform would be efficient when categories of the quasi weak social categories would be prioritized as an interim period, to finally achieve the ultimate goal in terms of legal aid, so as to provide it for all citizens – and non-citizens as well –.

The recommendations could be summarized as follows:

[63] Appendix 8.

• Legal representation for the indigent in civil and criminal cases remains substantially below the demand. As funds become available to expand programs, priority should be given to providing greater levels of assistance for legal aid to wider range of social categories.

• It is critical that legislation be implemented which would revise the qualifying criteria for legal assistance based on income levels rather than employment.

• Access to the courts without legal representation is currently limited to the Labor Court. Efforts should be made to expand *pro se* opportunities to cases of nominal value and, where appropriate, to consider the use of paralegals for more complex cases, as well as legal clinics at the law faculties. Legal clinics can provide valuable assistance to the poor under the supervision of qualified lawyers, as well as a way to provide practical training.

• Take concrete steps to bring Lebanese Laws and regulations inconformity with international standards; particularly, make the adequate legislative amendment to comply with the international conventions and treaties which Lebanon had signed and ratified.

NGOs Report

National NGOs

Dar Al-Amal

General Coordinator: Hoda Kara
Address: Sin El Fil - Nabaa
Landline: 01-241164 or 01-483508
Mobile: 03-886860
Fax: 01-241164 or 01-483508
Email: Hodakara@cyberia.net.lb

Report[64]:
In 2009:

- Number of people assisted: 58 Persons
- Nationality of people assisted: Lebanese: 20, Syrians: 13, Palestinians: 12, Egyptians: 4, Stateless: 8

In 2010 (till June 2010):

- Number of people assisted: 24 Persons
- Nationality of people assisted: Lebanese: 12, Syrians: 4, Palestinians: 5, Egyptians: 1, Stateless: 2

Prisons:
Dar al-Amal Association works in three women prisons: Baabda, Tripoli and Zahle.

- Baabda: 62 imprisoned women
- Tripoli: 191 imprisoned women
- Zahleh: 45 imprisoned women

Criteria required granting the legal assistance:
In our legal assistance project we choose our beneficiaries according to several criteria:
- Imprisoned women who suffer from very difficult financial conditions
- Imprisoned women who cannot afford lawyer fees
- Imprisoned women who have a lawyer yet he is not following up on the case."

Kafa Association

Managing director: ZoyaRouhana
Address: 43 Badaro Street, Beydoun Bldg., 1st Floor, Beirut-Lebanon

[64] Information provided by the organization on the 20th of June 2010.

Landline: +961 (0)1 392 220
Mobile: +961 3 01 80 19
Fax: +961 (0)1 392 221
Email: kafa@kafa.org.lb
URL: www.kafa.org.lb

Association for the Defense of Rights and Liberties (ADDL)

President : Marie Ghantous
Address: Achrafieh, Sioufi Street, Baddoura pharmacy building
Mobile: +961 (0)3 749 292
Email :mrghantous@yahoo.com

The Lebanese Women Democratic Gathering (RDFL)

President WadadChakhtoura
Address: HQ - 1st Floor - Rayyes and Hamoud Building - Nahas Street - Zkak El Blat - Beirut
Landline: +961 (0)1 370 120
Mobile: +961 (0)3 328 034
Fax: +961 (0)1 370 189
Email: rdfl@inco.com.lb
URL: www.rdflwomen.org

Caritas Lebanon – Migrant Center

President of the Board Committee: Engineer Kamal Sioufi
Address: Takla Center - Facing Futuroscope - Charles Helou Boulevard - Sin El Fil
Landline: +961 (0)1 502 550; +961 (0)1 502 551
Fax: +961 (0)1 502 550
Email: carimigr@inco.com.lb

Caritas Lebanon

President: Father Louis Samaha
Address: Dr. Youssef Hajjar Street – Kalaa - Sin el Fil
Landline: +961 (0)1 499767/8/9
Fax: +961 (0)1 494 713
Email: executive@caritas.org.lb
URL: www.caritas.org.lb

Frontiers Ruwad Association (FR)

Director: Samira Trad
Address: Tayouneh – Main Street- Next to Beirut Mall.

Landline: +961 (0)1 389 556
Mobile: +961 (0)3 457 324
Fax: +961 (0)1 389 556
Email: frontierscenter@cyberia.net.lb
URL: www.frontiersruwad.org

Union for Protecting Childhood in Lebanon (UPEL)

President: Bernard Jourbaka
Address: Palace of Justice, Beirut
Landline: +961 (0)1 427 973
Mobile: +961 (0)3 303 434
Fax: +961 (0)1 427 973
Email: info@upel.org
URL: www.upel.org

International NGOs

United Nations - Office of the High Commissioner For Human Rights (OHCHR)

Country Director: Ben MAJEKODUNMI
Lebanon Mobile +961 70 924 743
Lebanon Address: bld. Khater. Dr.PhilipeHetti Street, Ramle el-Bayda, Beirut Lebanon, PO BOX: 7332
Lebanon Landline: 00 961 1 849 201
Lebanon Fax: 00 961 1 849 211
Email: benmajek@gmail.com

Danish Refugee Council (DRC)

Country Director: Allen Jelich
Lebanon Address: 5th Floor - Aresco Centre - Justinian Street - Sanayeh - Hamra - Beirut
Lebanon Landline: +961 (0)1 736987 / 738289
Lebanon Fax: +961 (0)1 736987
Lebanon Email: drclebanon@drclebanon.dk
Director Email: allen.jelich@drclebanon.dk
Lebanon URL: www.drc.dk

United Nations Relief and Works Agency for Palestine Refugees (UNRWA)

Director of UNRWA Affairs: Richard. J. Cook
Lebanon Address: UNRWA Bldg., Bir Hassan, Opposite Sportive City,

P.O.Box 11-0947
Lebanon Landline: +961 (0)1 840 490/5
Lebanon Fax: +961 (0)1 840 466
Email: r.cook@unrwa.org

RESOURCES

- Central Administration for Statistics, March 2007
- Country fact sheet, published by the US Central Intelligence Agency, https://www.cia.gov/library/publications/the-world-factbook/geos/le.html
- *"World Refugee Survey 2008"*, US Committee for Refugees and immigrants-2007
- Lebanese Ministry of Finance- Country profile
- *"Poverty, Growth and Income distribution in Lebanon"*- Ministry of Social Affairs, UNDP and World Bank, August 2008
- Prison Division- Internal Security Forces database
- Al-Akhbar Newspaper
- Commander in Chief Antoine Shakkour, ISF, lecture given at House of Lawyers on March, 26, 2009
- *"Fees, Expenses and the legal aid"*by AfifShamseddin and John Azzi, first edition, Beirut 2009
- World Bank: *"Lebanon – Legal and Judicial Sector Assessment, June 2003"*
- Interview with Commander in Chief Antoine Shakkour, ISF.

Appendix 1

Deprivation Measures Using Money Metric Poverty and Unsatisfied Basic Needs Index by Governorate

	Deprivation in Satisfaction of Living Conditions		Deprivation in Money Metric Welfare	
	Very low Level of Satisfaction	Very low and low Level of Satisfaction	% of the poor using Lower Poverty Line	% of the poor using Upper Poverty Line
Beirut	0.4	9.0	0.7	5.9
Mount Lebanon	2.7	22.2	3.8	19.6
North	7.3	42.4	17.8	52.6
Bekaa	6.4	33.5	10.8	29.4
South	5.6	44.5	11.6	42.2
Nabatieh	9.3	50.1	2.2	19.2
All Lebanon	4.4	29.7	8.0	28.6

Appendix 2

Mean and Median Nominal and Real Per Capita Consumption and Expenditure by Governorate (2004-2005) in Thousand LBP

Mohafaza	Nominal Per Capita Expenditure		Nominal Per Capita Consumption		Consumption Adjusted for Price Differential	
	Mean	Median	Mean	Median	Mean	Median
Beirut	7479	5762	6514	5240	5706	4589
Mount Lebanon	5079	3962	4512	3661	4194	3403
Nabatieh	4239	3508	3924	3349	4447	3796
Bekaa	3665	2931	3385	2747	3392	2753
South	3274	2402	3007	2276	3093	2341
North	2862	2129	2532	1933	3045	2325
All Lebanon	4452	3334	3975	3101	3911	3090

Appendix 3

الجمهورية اللبنانية
المديرية العامة لقو ى الامن الداخلي
قيادة الدرك / فرع السجون

ان استيعاب سجون وحدة الدرك للسجناء هي على الشكال التالـــــي :

عدد: /٢٠٤ ف٧

اسم السجـــــــن	مدة صلاحية السجن	موقوف	محكوم	محكوم اعدام	محكوم مؤبد	حد ادنى	حد اقصى	موجود بتاريخ ٢٠١٠/٦/١٥
رومية	مؤبد	٢٦٠٠	١٠٧٨	٣٤	٦٥	٢٥٠٠	٣٠٠٠	٣٦٧٨
الاحداث- رومية	مؤبد	١٣٧	١٠			٢٥٠	٢٧٠	١٣٧
معهد اصلا ح الفنار	-	١٦	٣					١٩
سجن القاصرات	-	١١						١١
جبيل	ستة اشهر		٢٥			٢٢	٢٤	٢٥
عاليه	سنه	٣	٤٤			٥٦	٦٢	٤٧
نساء بعبدا	مؤبد	٥٣	١٤	٢		٤٥	٥٠	٦٧
نظارة قصر عدل بعبدا	-	٣٧						٣٧
نظارة قصر عدل بيروت	-	٣						٣
نساء بربر الخازن	مؤبد	٣٢	٢٩					٦١
نظارة ثكنة الحلو	-							٠
طرابلس	مؤبد	٣٧٥	١٦٩	٦	٤	٤٩٥	٥٥٠	٥٤٤
حلبا	سنه		٨٤			٦٨	٧٥	٨٤
البترون	سنتان		٣٦			٤١	٤٥	٣٦
زغرتا	ستة اشهر	٤٢	٤			٥١	٥٦	٤٦
اميون	سنه	٣٦	١٢			٤٥	٥٠	٤٨
نساء طرابلس	مؤبد	٨٧	٥٤	١	٢	٢٨	٣٢	١٤١
نظارة قصر عدل طرابلس	-	٣٣						٣٣
زحله	ست سنوات	٣٠٣	٦٢			١٠٣	١١٥	٣٦٥
نساء زحله	ست سنوات	٤٣	١٠			٣٠	٣٤	٥٣
جب جنين	ثلاث سنوات	٥٤	٢٨			٦٣	٧١	٨٢
بعلبك	ست سنوات	٦٠	٢٤			٤١	٤٥	٨٤
راشيا	سنتان		٥٢			٤٠	٥٠	٥٢
رأس بعلبك	ستة اشهر		٥٩			٤٠	٥٥	٤١
نظارة قصر عدل زحله	-	١٤						١٤
نظارة قصر عدل بعلبك	-	٩						٩
صور	اربع سنوات		٦٢			٦٢	٦٨	٦٢
النبطية	سنتان	٧٣	٢١			٣٠	٣٤	٩٤
تبنين	ستة اشهر	٥٧				٥٣	٥٩	٥٧
جزين	ستة اشهر		٢٠			٥٠	٥٥	٢٠
نظارة قصر عدل صيدا	-	٢٤						٢٤
نظارة قصر عدل النبطية	-	١٣						٥
المجمـــــــوع	-	٤١١٥	١٩٠٠	٤٣	٧١	٤١١٣	٤٨٠٠	٦٠١٥

Appendix 4

Nationalities and Gender of Prisoners beyond their sentences

Prisons	GENDER	Algerian	Iraqi	Egyptian	Indian	Sudanese	Jordanian	Moroccan	Bahraini	Bangladeshi	Sri Lankan	Turkish	Nigerian	Filipino	Nepalese	Ukrainian	African	Madagascan	Chadian	Ethiopian	Kuwaiti	Yemeni	Pakistani
Roumieh	M	1	14	17	5	4	4	1	1														
Jbeil	M		4	5	4	4						2											
Aley	M		5	4	2	8				3	1	1	1										
Tripoli	W							2		18	13			16	1	2	1	1					
Tripoli	M						1																
Halba	M			9	1	18													2				
Zgharta	M		1	3																			
Jezzine	M		1	7																			
RasBaalbeck	M		2		3	11	3			1													
Tyr	M			1		8																	
Jibjennine	M			2	2	9				2													1
Rashaya	M		2	1	1	8					1								1				
Baabda	W									2	4												
Zahleh	W									4	8			3						1			
Zahleh	M					1						1									1	1	
Total	**273**	**1**	**29**	**49**	**18**	**71**	**8**	**3**	**1**	**30**	**27**	**4**	**1**	**19**	**1**	**2**	**1**	**1**	**3**	**1**	**1**	**1**	**1**

Appendix 5

جـــــــدول عددي بالسجناء الاجانب المنتهية احكامهم في السجون
لغاية ٢٠١٠/٦/١٠

سجن روميه : جزائري١– عراقي ١٤ – مصري ١٧– هندي ٥ – سوداني ٤– اردني١ –مغربي ١
بحريني ١ – اردني ٣

سجن نساء بعبدا : بنغلادشي ٢ – سرلنكي ٤

- سجن جبيل : مصري٥– هندي ٤– سوداني ٤ – عراقي ٤ – تركي٢
- سجن عاليه : سوداني ٨– هندي ٢– بنغلادش ٣ – سرلنكي ١ – مصري ٤ – عراقي ٥ تركي ١
نيجيري ١

- سجن نساء طرابلس :مغربية ٢– سرلنكية ١٣– فيلبينية ١٦– بنغلادشية ١٨ – نيبالية ١ –
اوكرانية ٢ – افريقية ١ – مدغشقر ١

* سجن رجال طرابلسى : اردني ١

* سجن زغرتا : مصري ٣ – عراقي ١

*سجن حلبا : تشادي ٢ – سوداني ١٨ – مصري ٩ –هندي ١

- سجن جزين: مصري ٧ – عراقي ١
- سجن صور: سوداني ٨ – مصري ١

- سجن راس بعلبك : سوداني ١١ – هندي ٣ – بنغلادشي ١– عراقي ٢ – اردني ٣
- سجن نساء زحلة : فيلبينية ٣ – بنغلادش ٤– سيرلانكية ٨ – اثيوبيه ١
- سجن زحلة : تركي ١– سوداني ١ – كويتي ١ – يمني ١
- سجن راشيا : عراقي ٢ – سوداني ٨ – تشادي ١ – هندي ١– مصري ١ – سرلانكي ١
- سجن جب جنين : سوداني ٩ – هندي ٢ – بنغلادشي ٢ – باكستاني ١ –مصري ٢
-

المجموع العام : / ٢٧٣/ سجينا" ٠

ملاحظـــــــــــــة : معظم السجناء الاجانب المنتهية احكامهم يلجاون الى الاضراب عن الطعام والتهديد بالانتحار واثارة الفوضى والشغب داخل السجون لكي يتم ترحيلهم ٠

Appendix 6

Form No. 1

Submitted for defense in the action brought by the defendant

To the venerable Chamber of First Degree in North Lebanon

Petition Submitted by

The petitioner: _____residing in _____

The defendant: _____residing in _____

The third person who should be notified: The Appellate General Prosecution in North Lebanon

First: In the facts

Second: In the law

Whereas the judicial aid was adopted by the law for the benefit of persons whose bad financial conditions do not allow them to assume the charges of the trial fixed by the court.

Whereas article 427 (C.C.P.) provides the possibility to grant the judicial aid for bringing the first degree legal action or for defense, in other words the application for the judicial aid may be submitted after bringing the lawsuit in order to allow the plaintiff to defend himself.

Whereas the certificate given by the mayor of the city of _____ attached to the file confirms the bad financial condition of the petitioner.

Whereas the copy of the pleading attached to the file and the other included documents indicate clearly that the defense of the plaintiff requesting the judicial aid is useful and acceptable.

Therefore,

The conditions of the judicial aid are fulfilled pursuant to the provisions of the Code of Civil Procedures.

For all the reasons above mentioned

We ask your venerable court to pass a decision granting the petitioner a judicial aid in order to proceed in the case brought by the defendant, before the single judge in _____ , looking into the cases _____ , in order to bind the plaintiff to _____, until the last degrees of the lawsuit, the execution of the judgment passed in this regard, pursuant to the provisions of article 439 C.C.P., and its notification.

With best regards

The petitioner

Appendix 7

Form No. 2
Submitted for defense in the action brought by the defendant

To the venerable Chamber of First Degree in North Lebanon
Petition Submitted by

The petitioner: _____ residing in _____
The defendant: _____ residing in _____
The third person who should be notified: The Appellate General Prosecution in North Lebanon
First: In the facts

Second: In the law

Whereas the judicial aid was adopted by the law for the benefit of persons whose bad financial conditions do not allow them to assume the charges of the trial fixed by the court.
Whereas article 427 (C.C.P.) provides the possibility to grant the judicial aid for bringing the first degree legal action, in other words the application for the judicial aid may be submitted for bringing the lawsuit in which this aid shall be used.

Whereas the certificate given by the mayor of the city of _____ attached to the file confirms the bad financial condition of the petitioner.

Whereas the copy of the pleading attached to the file and the other included documents indicate clearly that the defense of the plaintiff requesting the judicial aid is useful and acceptable.

Therefore,

The conditions of the judicial aid are fulfilled pursuant to the provisions of the Code of Civil Procedures.

For all the reasons above mentioned

We ask your venerable court to pass a decision granting the petitioner a judicial aid in order to bring a case against the defendant, before the single judge in _____ , in order to bind the plaintiff to _____ , until the last degrees of the lawsuit, the execution of the judgment passed in this regard, pursuant to the provisions of article 439 C.C.P., and its notification.

With best regards

The petitioner

Appendix 8

Legal Aid Assessment Form
Survey conducted in Roumieh prison

No ☐

1. How were you arrested? .....

2. Where? .....

3. Did you know that you have the right to obtain the help of a lawyer?

☐ Yes ☐ No

4. Were you informed during your arrest that you have the right to obtain free legal aid from a lawyer?

☐ Yes ☐ No

5. Did the authorities that arrested you inform you of your right to contact a lawyer before proceeding with the investigation at the police station?

☐ Yes ☐ No

6. Did you contact a lawyer before being interrogated?

☐ Yes ☐ No

7. After being sent to the Prosecutor General‘s office, did the judge ask you if you wanted to appoint a lawyer?

☐ Yes ☐ No

Legal Aid Assessment Data Analysis
Survey conducted in Roumieh prison

Results of 50 forms filled in Roumieh prison

1) Method of arrest:

Arrested by an inspector	Summoned by the police station	Arrested in the General Prosecutor
9	27	14
18%	**54%**	**28%**

2) Place of arrest:

Mount Lebanon police stations	Beirut police stations	Beirut Area	South Area
13	7	25	5
26%	**14%**	**50%**	**10%**

3) Knowledge of the right to obtain a lawyer:

Yes	No
17	33
34%	**66%**

4) Informed of the right to obtain free legal aid from a lawyer:

Yes	No
3	47
6%	**94%**

5) Informed of the right to contact a lawyer before proceeding with the investigation at the police station:

Yes	No
23	27
46%	**54%**

6) Contacting a lawyer before the interrogation:

Yes	No
9	41
18%	**82%**

7) The judge‘s question about the prisoner‘s desire to appoint a lawyer:

Yes	No
42	8
84%	**16%**

Beirut, the 9th of August, 2010

ATTACHMENT 6

Annex 2

PERFORMANCE MONITORING PLAN

SIJCAJ Project – Fiscal Year 3 (Oct 09 – Sep 10)

USAID PMP FY 2009 Indicators

Expected Result	Indicator	Benchmark Measurement	Benchmark Data Source	Year of Baseline	Target Fiscal Year 3	Actual Qrt Rep 8 Oct-Dec 2009	Actual Qrt. Rpt. 9 Jan-Mar 2010	Actual Qrt Rpt. 10 Apr-Jun 2010	Actual Qrt. Rpt.11 Jul-Sep 2010	Total Achieved FY 3	Percent FY3	Comments
1. Increase Judicial independence	Numbers of draft laws, regulations, and procedures related to judicial independence supported with USG assistance	Completion of drafts laws, regulations, and procedures supported by the project	NCSC	2009/1	2	0	0	0	2	0	100%	Target met
2. Increase Judicial independence	Number of judicial training programs provided with USG assistance	Number of judicial training programs	NCSC	2009/6	15	6	1	4	3	14	93%	
3. Increase Judicial independence	Number of USG asisted Courts with improved case management	Number of courts with improved case management	NCSC	2009/1	3	1	0	0	0	1	33%	Assistance in the two other courts is on-going, improve case mangement will only be achieved next quarter.

TASK 1: Develop the Capacity and Infrastructure of the Judicial Training Institute for Initial and Continuing Training

Expected Result	Indicator	Benchmark Measurement	Benchmark Data Source	Year of Baseline	Target Fiscal	Actual Qrt Rep 8	Actual Qrt. Rpt. 9	Actual Qrt Rpt. 10	Actual Qrt. Rpt.11	Total Achieved	Percent FY3	Comments

					Year 3	Oct-Dec 2009	Jan-Mar 2010	Apr-Jun 2010	Jul-Sep 2010	FY 3		
1. Judges are well-trained and qualified	Number of incoming judges trained with Project assistance pre-appointment.	Judicial trainees attending classes at Judicial Training Institute (JTI) renovated by Project, or attending Project supported courses elsewhere	MOJ	2008/0	25	15(9 males)	0	0	0	15 (9 males)	60%	Training for all 47 trainees is schedule to begin in November in the new JTI.
	Number of sitting judges trained with Project assistance.	Sitting judges trained or participating in study tours /overall SIJCAJ project	MOJ/ NCSC	2008/0	120	8 (6 males)	33 (21 males)	0	0	41 (27 males)	34%	Due to the high # of trainings provided by int'l org. JTI rep didn't want to conduct training this QR. They agree for a training in Nov 2010.
	Number of legal resources provided with Project assistance	JTI website with legal data base (digitalize legal resources)	MOJ, NCSC	2008/0	1	1	0	0	0	1	100.00%	Target met
	Number of judicial trainee candidates examined for entry into judicial profession with modern techniques	List of tested candidates	MOJ, NCSC	2008/0	600	0	592	0	0	592	99%	Target met
	Percentage of Judge Trainees responding that curriculum is satisfactory in meeting their training needs	Survey	NCSC/MOJ	2008/0	80%	0	0	0	0	0	n/a	Traininig with new curriculum for all 47 trainees is schedule to begin in November in the new JTI. Survey can only be

												conducted after beginng of classes
	Number of new upgraded IT stations for e-library	Judicial Training Institute e-Library	NCSC/MOJ	2008/0	4	1	**0**	40	0	41	1025%	Target surpassed
	Number of judicial training management information systems created or supported by the project	Judicial Training Institute automated management system	NCSC/MOJ	2008/0	1	1	0	0	0	1	100%	Target met

TASK 2: Enhance Judicial Intependence

Expected Result	Indicator	Benchmark Measurement	Benchmark Data Source	Year of Baseline	Target Fiscal Year 3	Actual Qrt Rep 8 Oct-Dec 2009	Actual Qrt. Rpt. 9 Jan-Mar 2010	Actual Qrt Rpt. 10 Apr-Jun 2010	Actual Qrt. Rpt.11 Jul-Sep 2010	Total Achieved FY 3	Percent FY3	Comments
1. Improved judicial independence	Number of programs to enhance public understanding and media coverage of judicial independence and accountability	Assessment on MOJ Public relation capacity, national campaign	NCSC, MOJ public relation Dept	2008/0	2	0	0	0	0	0	0%	Assessment deemed unecessary by MOJ (supporting letter). No feed back from MOJ on National Campaign.
	Number of programs to promote	Assessment for budget	HJC, MOJ,	2008/0	2	1	0	0	1	2	100%	Target met

	High Judicial Council (HJC) control over management of court budget	control and asistance on drafting legislations	MOF									
	Number of programs supported by Project to promote judiciary's control over membership of the High Judicial Council (HJC)	Study Tour, and consultancy in drafting legislation on the judiciary	NCSC, MOJ, HJC	2008/0	2	0	0	0	2	2	100%	Target met
2. Judicial code of professional conduct honored and enforced	Number of programs by Project to reform judicial code of conduct and procedures for enforcement	Counsultancy on drafting code, and related roundtables	NCSC, HJC, MOJ	2008/0	2	0	0	0	1	1	50%	Roundtables schedule to be held in November 2010.
	Number of programs supported by Project to reform procedures for enforcement of judicial discipline	Consultancy to improve judiciary discipline process, Training for JIU, study tour for JIU, JIU IT equipment up-grade program	NCSC,HJC,MOJ, JIU	2008/0	4	0	0	2	2	4	100%	Target met

TASK 3: Support Efforts by the Ministry of Justice to Improve Court Administration

Expected Result	**Indicator**	**Benchmark Measurement**	**Benchmark Data Source**	**Year of Baseline**	**Target Fiscal Year 3**	**Actual Qrt Rep 8 Oct-Dec 2009**	**Actual Qrt. Rpt. 9 Jan-Mar 2010**	**Actual Qrt Rpt. 10 Apr-Jun 2010**	**Actual Qrt. Rpt.11 Jul-Sep 2010**	**Total Achieved FY 3**	**Percent FY3**	**Comments**
1. Improved court administration	Number of courts with improved infrastructure adequate to serve modern court administration	Completion of Model Court and information kiosks	NCSC, MOJ,	2008/0	1	0	1	0	0	**1**	100%	Traget met

	Number of modern manual filing system designed, implemented or supported	Installation of modernized filing systems in Model Court and Dept. of State Litigation (Office of Contensious Issues)	NCSC/MOJ	2008/0	2	0	1	0	1	**2**	100%	Target met
	Number of court personnel trained in modern administrative techniques	Participation in seminars, working groups and study tours	NCSC/MOJ	2008/0	200	21 (15 males)	0	3 (2 males) (20 others already counted in QR 8)	**0**	23 (17 males)	12%	Target was set in accordance with the number of participants for each training scheduled.US AID Audit later informed SIJCAJ that participant could only be accounted once.
	Number of court management information systems (MIS) created or supported by Project	Installation of automation assisted case management systems in Judgment Executions Court (Model Court) Dept. of State Litigation (Office of Contensious Issues)	NCSC, MOJ	2008/0	2	1	0	0	0	**1**	50%	
	Number of information educational and awareness events regarding court administration improvements completed by the Project	Seminars, training sessions, workshops, study tour	NCSC, MOJ	2008/0	8	3	0	4	**0**	**7**	87%	
	Number of modernized administrative processes and procedures created, implemented or supported by the Project	Court administrative practices of Judgment Executions Court and Dept. of State Litigation(Office of Contensious Issues)	NCSC/MOJ	2008/0	2	1	0	0	1	**2**	100%	Target met

	Number of alternative dispute resolution (ADR) program supported by project	ADR Assessment	NCSC/LCPS	2010/0	1	0	0	0	1	**1**	100%	Target met

TASK 4: Improve Access to Justice

Expected Result	Indicator	Benchmark Measurement	Benchmark Data Source	Year of Baseline	Target Fiscal Year 3	Actual Qrt Rep 8 Oct-Dec 2009	Actual Qrt. Rpt. 9 Jan-Mar 2010	Actual Qrt Rpt. 10 Apr-Jun 2010	Actual Qrt. Rpt.11 Jul-Sep 2010	Total Achieved FY 3	Percent FY3	Comments
1. Indigent citizens receive quality legal services	Number of legal attorneys trained by Project	Study tour and follow-up trainings	NCSC/Beirut and Tripoli Bar Associations	2008/0	25	4 (2 males)	0	0	50 (27 males)	54 (29 males)	216%	Target surpassed
	Number of training curriculum developed	Training needs assessment and Legal Aid Curriculum	NCSC/Beirut and Tripoli Bar Associations	2008/0	2	0	2	0	0	2	100%	Target met
	Number of legal aid administrative systems analyzed and recommended for improvement	Need based assessment, and IT assessment	NCSC/Beirut and Tripoli Bars; MOJ	2008/0	2	0	0	2	**0**	2	100%	Target met
	Number of publicized events in support of legal aid	Public information campaign, legal aid certificate ceremony	NCSC/Beirut and Tripoli Bars; MOJ	2008/0	2	0	0	0	0	0	0%	Public information campaign (poster) completed this QR. Needs USAID and BBA approval on branding.
2. Public is informed of justice services	Number of informative events targeted for public awareness of justice	Information Kiosk, Law Day, e.g.	NCSC,MOJ	2008/0	1	0	0	0	**0**	0	0%	MOJ did not follow on this activity (supporting document

												available)
	Number of publications created and distributed by Project regarding justice services	State Council Legal Aid Guidebook	NCSC, State Council	2008/0	1	0	0	0	0	0	0%	Despite NCSC several deadline, State Council did not produce the guide book on-time. (supporting document available).

TASK 5: Grants Program

Expected Result	Indicator	Benchmark Measurement	Benchmark Data Source	Year of Baseline	Target Fiscal Year 3	Actual Qrt Rep 8 Oct-Dec 2009	Actual Qrt. Rpt. 9 Jan-Mar 2010	Actual Qrt Rpt. 10 Apr-Jun 2010	Actual Qrt. Rpt.11 Jul-Sep 2010	Total Achieved FY 3	Percent FY3	Comments
1. Increased public support for reforms and respect for the rule of law	Grants awarded that build public awareness and support for reform	Number of grant applications submitted and awarded	Grant applications and committee awards	2008/0	0	0	0	0	0	0	N/A	Grant applications received and grant awards completed in FY 2.

TASK 6: Strategic Planning for Justice Sector in Lebanon

Expected Result	Indicator	Benchmark Measurement	Benchmark Data Source	Year of Baseline	Target Fiscal Year 3	Actual Qrt Rep 8 Oct-Dec	Actual Qrt. Rpt. 9 Jan-Mar	Actual Qrt Rpt. 10 Apr-Jun	Actual Qrt. Rpt.11 Jul-Sep	Total Achieved FY 3	Percent FY3	Comments

						2009	2010	2010	2010			
1. Institutional consensus on reforms for justice sector for short- to medium-term captured in strategic plan	Number of strategic planning assessment	Assessment report	NCSC, MOJ, HJC	2009/0	1	1	0	0	0	0	100%	Target met
	Number of workshop conducted	workshops,retreat	NCSC, MOJ, HJC	2009/0	2	1	1	0	0	0	100%	Target met

TASK 7: Facility Assessment and A-E Design/Bid Material

Expected Result	Indicator	Benchmark Measurement	Benchmark Data Source	Year of Baseline	Target Fiscal Year 3	Actual Qrt Rep 8 Oct-Dec 2009	Actual Qrt. Rpt. 9 Jan-Mar 2010	Actual Qrt Rpt. 10 Apr-Jun 2010	Actual Qrt. Rpt.11 Jul-Sep 2010	Total Achieved FY 3	Percent FY3	Comments
1. Architectural engineering design JTI facility	Architectural design and bid documentation for the Judicial Training Institute completed	Submission of building assessment report	NCSC	2009/1	0	0	0	0	0	0	100%	Target met in FY 2
2. Architectural engineering design for Model Court	Architectural design and bid documentation for the Beirut Enforcement Court completed	Submission of building assessment report	NCSC	2009/1	0	0	0	0	0	0	100%	Target met in FY 2

TASK 8: Refurbishment of Model Court and Judicial Training Center

Expected Result	Indicator	Benchmark Measurement	Benchmark Data Source	Year of Baseline	Target Fiscal Year 3	Actual Qrt Rep 8 Oct-Dec 2009	Actual Qrt. Rpt. 9 Jan-Mar 2010	Actual Qrt Rpt. 10 Apr-Jun 2010	Actual Qrt. Rpt.11 Jul-Sep 2010	Total Achieved FY 3	Percent FY3	Comments

1. Renovation of Model Court	Beirut Enforcement Court refurbished	Completion of refurbished of Model Court	NCSC	2009/0	1	0	1	0	0	0	100%	Taget met
	Beirut Enforcement Court renovated	Completion of all construction works	NCSC	2009/0	1	0	1	0	0	0	100%	Target met
2. Renovation of JTI Facility	Judicial Training Institute refurbished	Completion of refurbished of JTI	NCSC	2009/0	1	0	0	1	0	0	100%	Traget met
	Judicial Training Institute renovated	Completion of all construction works	NCSC	2009/0	1	0	0	1	0	0	100%	Target met