

LEGAL AID

IN LEBANON - 2014



C.L.D.H

Centre Libanais des Droits Humains
Lebanese Center for Human Rights
المركز اللبناني لحقوق الإنسان

Published with the support of:



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Abbreviations

APT	Association for the Prevention of Torture
AJEM	Association Justice and Mercy
CCP	Code of civil procedures
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CLDH	Lebanese Center for Human Rights
FEMED	Euro-Mediterranean Federation against Enforced Disappearance
ICCPR	International Covenant on Civil and Political Rights
IRCT	International Rehabilitation Council for Torture victims
ISF	Internal Security Forces
LBP	Lebanese pounds
NGO	Non governmental organization
OMCT	World Organization against Torture
PHRO	Palestinian Human Rights Organization
PINACLE	Public interest advocacy center Lebanon
PRL	Palestine refugees from Lebanon
PRS	Palestine refugees from Syria
REMDH	Euro-Mediterranean Network of Human Rights
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UPR	Universal Periodic Review
UNRWA	United Nations Relief and Works Agency for Palestine Refugees in the Near East
WGAD	Working Group on Arbitrary Detention

About CLDH

The Lebanese Centre for Human Rights (CLDH) is a local non-profit, non-partisan Lebanese human rights organization based in Beirut. CLDH was created in 2006 by the Franco-Lebanese movement SOLIDA (Support for Lebanese Detained Arbitrarily), which has been active since 1996 in the struggle against arbitrary detention, enforced disappearance and the impunity of those perpetrating gross human rights violations.

CLDH monitors the human rights situation in Lebanon, fights enforced disappearance, impunity, arbitrary detention and racism and rehabilitates the victims of torture. CLDH regularly organizes press conferences, workshops and advocacy meetings on human rights issues in Lebanon and collects, records and documents human rights abuses in reports and press releases. CLDH team on the ground supports initiatives aimed at determining the fate of all missing persons in Lebanon.

CLDH regularly follows up on numerous cases of arbitrary detention and torture in Lebanon in coordination with Lebanese and international organizations, and with the United Nations Working Group on Arbitrary Detention (WGAD) and the UN Special Rapporteur on Torture. CLDH opened in 2007 a rehabilitation centre for the victims of torture in Beirut, Centre Nassim, member of the IRCT (International Rehabilitation Council for Torture victims), which provides multi-disciplinary professional support and case management for victims of torture and their families.

CLDH compiles a daily press review on human rights violations and on-going

judiciary cases in Lebanon and updates several human rights blogs.

CLDH is a founding member of the Euro-Mediterranean Federation against Enforced Disappearance (FEMED), a member of the Euro-Mediterranean Network of Human Rights (REMDH), a member of SOS Torture Network of the World Organization against Torture (OMCT), and of FIDH (International federation of human rights).

Methodology

In preparation for this report, CLDH reviewed applicable international and domestic laws, written and online source materials, conducted meetings and interviews with relevant parties engaged in the provision of legal aid, including the President of the Beirut Bar Association, members of the Beirut Bar association's Legal Aid Committee, lawyers, detainees, NGO and international organizations' representatives. During the meetings, CLDH presented its legal assistance program and explained the reasons for conducting this research. Based on a questionnaire, individual interviews were conducted in order to get feedback of all relevant stakeholders on the legal aid system in Lebanon. A specific questionnaire was also submitted to NGOs and International organizations implementing legal aid program in Lebanon.

Interviews were conducted with:

- Me George Jreij
President of the Beirut Bar Association
- Me Sleiman Lebbous
Previous President of the Beirut Bar Association Legal Aid Committee
- Me Joe Karam
Coordinator of the Beirut Bar Association Legal Aid Committee
- Me Georges Fiani
President of the Beirut Bar Association Legal Aid Committee
- Me Joyce Geha
Lawyer at Caritas Lebanon Migrant Center
- Ms. Carol Mansour,
Legal Aid Coordinator at UNRWA
- Lawyers from the Beirut and Tripoli Bar associations
- Trainee lawyers.

A meeting was also organized with the Beirut Bar Association Committees,

including the Legal Aid Committee, in the framework of which CLDH Legal Aid Program was presented. CLDH also attended a Seminar organized by AJEM and AECID on Legal Assistance and Legal Aid in Lebanonⁱ.

Introduction

A central tenet of the rule of law is the principle of equality before the law for all citizens. Legal aid, as a means of ensuring a justice system that is accessible and available to all, should be available for those who cannot afford the costs of justice.

Legal aid aims at enabling citizens to bring the lawsuit, proceed in it and achieve the necessary investigation procedures until the judgment is delivered, notified, appealed if necessary by legal means and executed, without binding the citizens to assume the charges and fees determined in the law or by the court, temporarily or definitively, according to each case. In Lebanon, legal aid may be given in both civil and penal cases. This research focused on the legal aid system for penal cases.

CLDH provides legal assistance to vulnerable inmates in the Lebanese prisons with the aim to strengthen the rule of law in Lebanon through the improvement of the access to Justice for all and the prevention of arbitrary detention. Every year, CLDH provides lawyers for inmates who cannot afford it and this legal assistance allows dozens of persons to be released, thus safeguarding their fundamental rights. In the framework of its legal assistance program, CLDH was able to assess some components of the legal aid system in Lebanon. In 2012, within this program, CLDH concluded that the main reasons why certain detainees did not benefit from legal aid were the following:

- Lack of information
- Lack of clear understanding on the role of lawyers
- Impossibility due to the location of certain detention places

- Impossibility due to trial circumstances, such as hearing delayⁱⁱ.

Following these observations, CLDH deemed necessary to launch an in depth research involving all relevant stakeholders in order to make appropriate findings and establish recommendations to improve the legal aid system in Lebanon.

In the timeframe of the research, Lawyer George Jreij was elected as the new head of the Beirut Bar Association, taking over from his predecessor Lawyer Nuhad Jaber. Me Jreij's action plan for the upcoming years includes several provisions related to legal aid. Thus, in his address at the retreat of the Bar council, Me Georges Jreij mentioned legal aid as a priority:
*"I would like to start the agenda, whose main points are: [...] Increase the fees of gratuitous legal aid, pursue the legal aid files and monitor their functioning."*ⁱⁱⁱ

The renewal of the Beirut Bar Association's Committees was also part of this new action plan. As such, the Beirut Bar Association Legal Aid Administrative Committee was renewed^{iv}, with several promising amendments to be implemented, as described below.

Overview of the issue of detention in Lebanon

Even though there are no statistics available, it is reasonable to assume that the number of inmates who would be eligible for legal aid in Lebanon is very high.

The issue of detention in Lebanon is critical in many aspects, taking into consideration the prisons situation, and the numerous cases of arbitrary detentions and allegations of torture and ill-treatment.

Prisons situation^v

There are 20 prisons located throughout Lebanon, 16 for men and 4 for women. Roumieh central prison for male adults

and minors is Lebanon's largest prison. Despite the 1964 decree on the administration of prisons by the Ministry of Justice, prisons were still at the time of this research under the authority of the Ministry of Interior. No decision has been taken yet in this regard by the government. The transfer of prisons' administration from the Ministry of Interior to the Ministry of Justice would, however ensure a more suitable prison administration with an appropriate and relevant trained staff.

Roumieh central prison for adult and minor males falls under ISF control; and Baabda prison for women as well as Dahr el Bachek for minor females fall under

Roumieh central prison's management. The other regional prisons, as well as a detention center for minor males are also under ISF control.

Some prisons are ruled by intelligence services and are used as « private » prisons, where the inmates remain under the authority of the same services that arrested and investigated them, under a limited or nonexistent supervision of the Judiciary. The prisons of the Ministry of Defense, under the control of the Lebanese military intelligence services, are also part of the Lebanese official list of prisons. The "Maalumet" Building, which is a building inside Roumieh central prison, is also used as an incarceration place. It seems to be under the exclusive control of the ISF intelligence and is called "Mabna Maalumet", but it is not officially registered as an independent prison.

The Retention Center for foreigners of the General Security, located in the center of Beirut at the "Adlieh" traffic circle, is not part of the official prisons. The management of this retention center is the second leading cause of prisons overcrowding in Lebanon after the slowness of the judicial system, and is causing the greatest number of arbitrary detentions known in Lebanon with the "administrative" detention as practiced today under the prerogatives of the General Security.

Finally, the conditions of detention at the retention center are deplorable; it is an underground parking, under the bridge Elias Hrawi, converted into a retention center since December 14, 2000. The prison conditions of the above mentioned detention centers in Lebanon are an issue of concern, taking into consideration the overcrowding, the lack of personnel

training and the inadequacy of the premises. Among the detention centers, CLDH keeps on condemning the practice of torture and horrifying conditions of detention at the Ministry of Defense detention center. The number and conditions of detention of the detainees kept in the Ministry of Defense detention center remain unknown.

Cases of arbitrary detention and torture^{vi}

The issue of torture is closely linked to the issue of arbitrary detention. The breaches of procedure do not only lead to arbitrary detention but they also pave the way for the practice of torture. As soon as the fair trial standards enshrined in both the Lebanese law and Lebanon's international commitments are not met, it goes without saying that in practice it merely opens the opportunity for several violations: incommunicado detention, absence of lawyer and then lack of confidential communications between the lawyer and his client, excessive length of detention in custody, etc... All these flaws in the procedures in force breed an atmosphere of permissiveness and impunity favoring the practice of torture. Vice-versa, arbitrary detention necessarily results from the practice of torture. Since it was established that a person signed confessions extracted under torture while detained in custody, this person should be released immediately, or else the detention becomes arbitrary.

In general, 67% of the prison population in Lebanon has been subjected to torture or very serious ill-treatments and has not been granted access to justice and reparation. In 2011 and 2012, 66% of the persons interviewed by CLDH team, who

were arrested and detained during these two years had been subjected to torture and/or serious ill-treatments.

If torture mainly took place during the preliminary investigations by the security services, treatments and conditions in the prisons are sometimes a tantamount of torture.

The practice of torture in Lebanon is generalized and still considered as a valid method of investigation and punishment in contradiction with the national law and international commitments of the country.

Numerous cases of arbitrary detention^{vii} are reported in Lebanon: foreigners detained beyond the end of their sentence, detainees “stuck” in prisons for administrative or financial reasons, detainees convicted to several sentences and who should be released according to the law on cumulative sentences, detentions on the grounds of national discrimination, arrests on the grounds of sexual orientation, and non observance of procedure.

By law, all foreigners who completed their sentences in the Lebanese prisons (under ISF control) are transferred to the General Security detention center in charge of either repatriating them to their country of origin or releasing them in Lebanon. This situation is a flagrant violation of article 9.1 of the ICCPR^{viii}, and may be qualified as an arbitrary detention. Thus, many inmates remain in detention at the General Security detention center for prolonged periods without legal basis. This situation mainly concerns in Lebanon, non-ID Lebanese and Palestinian refugees, Syrian refugees, Iraqi and Sudanese refugees, and migrant workers.

Arrests on the grounds of sexual orientation also occur in Lebanon, resulting in arbitrary detentions. Moreover, according to article 205 of the Lebanese penal code, if a person has been convicted to serve many multiple sentences, the severest penalty shall be enforced. Dozens of inmates in Lebanon could be released if a lawyer would be ready to submit a legal claim to allow their sentences to be served concurrently.

Finally, hundreds of persons arrested on security charges have been subjected to procedure violations that made their detention arbitrary. Whether arrested on terrorism or espionage charges, the detainees arrested in such cases over the past five years have seen their rights systematically flouted. Custody for an excessive period of time, torture, being denied access to lawyers and relatives for the duration of interrogations, prolonged delay in bringing the accused before an investigative judge, delayed ruling...

Overview of the judiciary system in Lebanon

Inspired by the French and Ottoman systems, the Lebanese judiciary is composed of ordinary courts (judicial – civil and criminal - and administrative), religious courts, as well as special courts such as the High Court of justice, the Justice Council and the military courts.

Ordinary courts – Judicial and Administrative court system

The judicial court system is composed of three court levels of general jurisdiction: the Courts of First instance, the Courts of Appeal and the Court of Cassation. Ordinary courts have general jurisdiction over civil and criminal cases. Civil

courts are regulated by the Code of Civil Procedure (CCP)^{ix}, the law on the judicial system^x and the law governing the organization of the courts^{xi}. Criminal courts are regulated by the Code of Criminal Procedure^{xii}.

Civil courts

- Courts of First instance (also called Magistrates Courts)

The cases filed in the courts of first instance are heard either by a single judge or a three-judge panel. Single judges have territorial jurisdiction over district cases (Casas), while the three-judge panels are territorially competent for regional cases (Mohafazats). Single

judges decide penal cases where the crime involves a sentence of three years imprisonment or less.

- Courts of Appeal

The courts of appeal sit as three-judge panels, with a president and two associate judges. The Court of Appeal has jurisdiction over all cases decided by first instance courts, as well as other cases for which it has original jurisdiction. There is a Court of Appeal in each of Lebanon's six regions.

Each Court of Appeal has a Public Prosecution Department headed by an Attorney General, working in conjunction with public attorneys, and an Investigation Department to investigate crimes.

- Court of Cassation

The Court of Cassation is the highest court in Lebanon, and is based in Beirut. There is one first president for the entire court, and then a president for each of the eight chambers; each chamber consists of the president and two associate judges. The president of the Court distributes cases to the chambers. The Court has jurisdiction over cases involving appeals based on law and not fact, where a dispute arises between a judicial and ecclesiastical court, between a judicial and a Shari'a court, or between two different ecclesiastical or Shari'a courts.

The Court of Cassation includes a Public Prosecution Department headed by the Attorney General who supervises all public attorneys in the judicial system. The Attorney General also functions as the Commissary of the Government at the Military Court of Cassation.

Criminal courts

- Criminal courts adjudicating misdemeanors

These courts comprise a single criminal judge in first instance cases, the Court

of Appeal for misdemeanors in appeal cases and finally, the Criminal Chamber of the Court of Cassation. The single criminal judge can be seized directly by the plaintiff.

- Criminal courts adjudicating crimes

These courts comprise Assize Courts for first instance cases and the Criminal Chamber of the Court of Cassation for appeal cases. The case is first examined by an investigating judge and then by the Chamber of accusation before it is decided by an Assize Court.

Administrative court: the State Council

Created in 1924, the State Council^{xiii} is the only administrative court in Lebanon. It includes ten chambers since 2000, hears cases filed by individuals against the State, municipalities, or any public institution. The Council also gives opinions regarding government decrees at the request of a ministry. Where there is a question of jurisdiction between administrative and civil courts, a Conflicts Tribunal consisting of judges from the Court of Cassation and the State Council determines competency. The Council judges are prohibited from handling a case in which he or she may have given an opinion on a related decree. Judgments by the Council are binding on the State. The State Council has full jurisdiction.

Legislative Decree No119 of June 12, 1959 provides the Council with jurisdiction over specific administrative and regulatory matters, including petitions for compensation from damage resulting from public works; government contracts and procurement; tax cases; salary and pension disputes of government employees; cases governing occupancy of the public domain; disputes related to the election of Administrative Councils;

discipline of government employees; and petitions to interpret or give opinions on the validity of administrative acts.

A law calling for the establishment of courts of the Council of State to be established elsewhere in Lebanon has not been implemented. In terms of efficiency, the Council has made a strong commitment to resolving backlogged cases. Lawyers have noted, however, that cases continue to languish.

Special courts

The special courts in Lebanon include the High Court of Justice, which has jurisdiction to try presidents, ministers and members of parliamentary, the Justice Council and the military tribunals, which have jurisdiction over military personnel and cases related to national security. The Justice Council and the military tribunals' jurisdictions and way of working violate the UDHR and the ICCPR, as explained below.

- High Court of Justice^{xiv}

The High Court of Justice is competent to hear cases related to public officials, including the President and Prime Minister of Lebanon and Ministers. The Council consists of seven deputies elected by the Chamber of Deputies and eight of the highest ranked Lebanese judges. The most senior judge serves as the president of the council. Decisions of condemnation by the High Court of Justice are decided by a majority of ten votes. In practice, no Minister or President has been prosecuted since its creation.

- Justice council

The Justice Council is the highest court in Lebanon. It is presided over by the first President of the Court of Cassation. The four other members are the four highest ranked judges sitting on the Court of Cassation. The Justice Council hears cases related to state security

that have been referred by the Council of Ministers (by decree) at the suggestion of the Minister of Justice. Under Article 366 of the Code of Criminal Procedure, as amended in 2005, decisions of the Justice Council cannot be appealed in any way, except if the trial is revised before the Justice Council itself. This lack of effective appeal is a flagrant violation of the ICCPR provisions.

- Military courts

Military Courts^{xv} have official jurisdiction over misdemeanors and crimes committed by military personnel, civilian employees of the military and internal security forces. The Military Courts are composed of a single military judge in each region of Lebanon. The law also establishes a permanent military court in Beirut composed of two chambers: one criminal court adjudicating misdemeanors exceeding the competence of single military judges – composed of one military officer appointed as President and assisted by two judges of whom only one is a civil judge –, and one criminal court adjudicating crimes – composed of one military officer appointed as President, one ordinary judge and three military officers. The decision of this chamber can be appealed before the military Court of Cassation. The Military Court of Cassation is based in Beirut, and composed of a civil judge as president – appointed to this office by the President of the Court of cassation – and four army officers. The Attorney General of the Court of Cassation acts on behalf of the Government in cases in the Military Court of Cassation. Military courts also try civilians allegedly involved in terrorism or issues of national security, or where a crime is committed together with a member of the military. In 1997, the UN Human Rights Committee expressed concerns with regard to the extent of the jurisdiction granted to

military courts^{xvi}. Thus, their jurisdiction, but also their composition and functioning contravene article 14 of the ICCPR. The trials before military tribunals are far from meeting international standards of fairness: military courts do not motivate in details their verdicts - because of the exceptional nature of the proceedings. Trials are often summary - especially before the Permanent Military Court which is distinguished by its swiftness and the exceptional nature of the procedures. Access to a lawyer is limited. Moreover, procedures of military courts are not subject to control by any independent judicial authority.

Religious courts

Religious courts represent a major specificity of the Lebanese judicial system. As stipulated in the Lebanese Constitution:

“Freedom of conscience is absolute [...] the State respects all creeds and guarantees and protects their free exercise provided that public order is not disturbed. It also guarantees to individuals, whatever their religious allegiance, the respect of their personal status and their religious interests.”^{xvii}

Separate laws exist for each of the religious communities in Lebanon. The Muslim, Christian, Orthodox, and Jewish populations, and the sects within each, have developed their own laws concerning domestic relations, which are interpreted and applied by religious courts: ecclesiastical courts (catholic and orthodox rites), Shari'a courts (Sunni and Shiite courts and Druze courts). The heads of legally recognized religious communities have the right to consult the Constitutional Council to examine the constitutionality of laws related to personal status, the freedom of belief and religious practice as well as the freedom

of religious education.

Constitutional council

The Constitutional Council reviews the constitutionality of legislation at the request of the head of the executive, legislative and judicial branches or ten members of Parliament. The head of each of Lebanon's religious communities have the right to consult the Council regarding laws governing personal status, religious education, and religious practice. The Council's jurisdiction includes settling disputes resulting from presidential and parliamentary elections. The Council consists of ten judges, half of whom are appointed by the Executive and one half of whom is elected by Parliament. Judges elect the president and vice-president of the Council. Public individuals have no recourse to the Council.

Legal aid in the law

Legal aid is necessary to ensure the equal enjoyment of protected rights by all, including those without the financial resources needed. Providing legal aid ensures three fundamental rights:

- equality before the law
- equal protection of the law
- effective remedy, by a competent tribunal, for human rights violations

International law rules on legal aid – Binding instruments

The Lebanese Constitution, in its Preamble states that

“Lebanon is [...] a founding and active member of the United Nations Organization and abides by its covenants and by the Universal Declaration of Human Rights.”

Article 2 of the CCP is interpreted to provide that international treaties, covenants and conventions ratified by Lebanon are binding and applicable in Lebanon as part of the hierarchy of the law. A number of binding international instruments recall legal aid to those without the financial means needed.

International Covenant on Civil and Political Rights (ICCPR)^{xviii}

The three fundamental rights mentioned

above are enshrined in the ICCPR, ratified by Lebanon in 1976:

*“Each State Party to the present Covenant undertakes: (a) to ensure that **any person whose rights or freedoms as herein recognized are violated shall have an effective remedy**, notwithstanding that the violation has been committed by persons acting in an official capacity”.* - Article 2-3.

*“The States Parties to the present Covenant undertake to ensure the **equal right of men and women** to the enjoyment of all civil and political rights set forth in the present Covenant.”* - Article 3.

*“All persons are equal before the law and are entitled without any discrimination to the **equal protection of the law**. In this respect, the law shall prohibit any discrimination and guarantee to all person equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”* – Article 26.

The right to legal aid in criminal matters is specifically provided in Article 14:

“In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it.” - Article 14-3.

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

Under Article 2^{xix} and Article 15^x of the CEDAW, Lebanon is obliged to ensure the legal protection of women on an equal basis and must provide civil legal aid necessary to the fulfilling of that obligation.

The CEDAW Committee has continuously reminded State Parties of the need to take measures to ensure that women across the world have access to fair and effective remedies when their rights are affected. The Committee has addressed the issue of access to justice through its various general recommendations, concluding observations, as well as decisions on individual communications. “Achieving substantive equality within the meaning of article 15 involves that [...] legal aid must be accessible to women to claim their rights.”^{xxi}

International law rules on legal aid – Non Binding instruments

In addition to the above mentioned international binding rules, a number of non binding instruments have been accepted by Lebanon. Thus, as a member of the United Nations, Lebanon recognizes the normative and persuasive importance of Declarations, Principles and Resolutions adopted by the General Assembly. These are, among others:

UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems^{xxii}

The UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, adopted by the United Nations General Assembly in December 2012, are

the first international instrument to deal with legal aid.

UN Basic Principles on the role of Lawyers^{xxiii}

The Preamble and Articles 2, 3 and 6 of these Principles on the Role of Lawyers articulate the duty to protect human rights, ensure equal access to lawyers and provide sufficient funding for legal services to the poor.

“Whereas adequate protection of human rights and fundamental freedoms to which all persons are entitled, be they economic, social and cultural, or civil and political, requires that all persons have effective access to legal services provided by an independent legal profession.” - Preamble.

“Governments shall ensure that efficient procedures and responsive mechanisms for effective and equal access to lawyers are provided for all persons within their territory and subject to their jurisdiction, without distinction of any kind, such as discrimination based on race, colour, ethnic origin, sex, language, religion, political or other opinion, national or social origin, property birth, economic or other status.” - Article 2.

“Governments shall ensure the provision of sufficient funding and other resources for legal services to the poor and, as necessary, to other disadvantaged persons. Professional associations of lawyers shall cooperate in the organization and provision of services, facilities and other resources”– Article 3.

Special safeguards in criminal matters are enshrined in Article 6:
“Governments shall ensure that all persons are immediately informed by the competent authority of their right to be

assisted by a lawyer of their own choice upon arrest or detention or when charged with a criminal offence.” – Article 6

UN Body of Principles for the Protection of all Persons under Any form of Detention or Imprisonment^{xxiv}

“If a detained person does not have a legal counsel of his own choice, he shall be entitled to have a legal counsel assigned to him by a judicial or other authority in all cases where the interests of justice so require and without payment by him if he does not have sufficient means to pay.” - Principle 17-2

UN Standard Minimum Rules for the Treatment of Prisoners^{xxv}

“For the purposes of his defence, an untried prisoner shall be allowed to apply for free legal aid where such aid is available, and to receive visits from his legal adviser with a view to his defence and to prepare and hand to him confidential instructions.” Rule 93

UN standard Minimum Rules for the Administration of Juvenile Justice^{xxvi}

“Throughout the proceedings the juvenile shall have the right to be represented by a legal adviser or to apply for free legal aid where there is provision for such aid in the country.” - Rule 15.1

Domestic law on legal aid

If the legal aid in civil cases is detailed in several articles of the Code of civil procedures, legal aid in penal cases and the related procedure is not provided in details in the Code of criminal procedures. During the interviews conducted in the framework of this research, many deplored this lack of procedure in the law concerning penal cases.

Lebanese Code of criminal procedures, article 78

Regarding criminal cases, article 78 of the Code of criminal procedures provides that if a defendant appearing before the investigating judge is unrepresented, the judge either designates a lawyer or refers designation to the president of the competent Bar association (Beirut or Tripoli).

Lebanese Code of civil procedures, articles 425 – 441^{xxviii}

Regarding civil cases, chapter 7 of the Code of civil procedures^{xxix} provides that if one of the parties, who is of Lebanese nationality or a foreigner usually residing in Lebanon where his or her country would grant reciprocal right to a Lebanese national, cannot pay the charges and fees of a trial, the party may apply for legal aid in order to sue or defend in the first instance or on appeal.

Legal Aid Beneficiaries

In Lebanon, there are no statistics on the number of persons requesting legal aid in both civil and penal cases. The Beirut Bar Association approximately takes 500 cases per year, and the Tripoli Bar Association approximately 90 cases per year. Moreover, Lebanese citizens in general, and inmates lack information on the legal aid system they are entitled to benefit from.

Lebanese citizens

Under the Lebanese law, any Lebanese citizen who is unable to assume the charges and fees of the trial is entitled to benefit from legal aid^{xxx}.

Natural Persons, Foreigners

Natural persons and foreigners are also entitled to benefit from legal aid under residency and reciprocity conditions – as such, for foreigners, their country of origin should grant that same right to the Lebanese^{xxxi}.

In 2012, in the framework of its legal assistance program, CLDH concluded that the second reason of the beneficiaries' vulnerability was being a foreigner. Thus, more than half of the detainees who benefited from CLDH legal assistance program were foreigners in 2012^{xxxii}. Often lacking social links

in Lebanon, foreigners are more likely than others to be victims of violations in prisons, for instance foreigners usually have no family to appoint them a lawyer^{xxxiii}.

Indeed, the right to defense lawyers is not always guaranteed especially when it comes to migrants, who are mostly tried in mass and in speedy hearings without being given the opportunity to present their cases.

A question arises here concerning the condition of reciprocity that is required for legal aid in civil cases, and Palestinian refugees. Indeed, according to this condition, Palestinians could be excluded from legal aid in civil cases as they are not citizens of a recognized state; this situation has been denounced by several civil society organizations^{xxxiv}. Nevertheless, the legislator shall not impose a condition that in practice cannot be applied; consequently, this concern falls under the judge's interpretation.

As for refugees tried for illegal entry and illegal stay, they are not automatically entitled to legal aid.

Even though it was not possible at the time of this report to collect from the Beirut Bar Association the statistics of the year 2013 in terms of the beneficiaries' nationalities, it was reported that mainly Syrians benefited from the legal aid in 2013.

Finally, lawyers are not allowed to access the retention center in Adlieh, which represents a major restriction to access to justice for foreigners. At the time of the report, the Beirut Bar Association Legal Aid Committee expressed its concern over this issue, and has put as an

objective to have access to the foreigners detained at the retention center.

Legal Aid Stakeholders

Lebanese State

Even though it was reported that during the 1970's and 1980's and up until 1992, the budget for the Ministry of Justice contained a modest appropriation of thousands of dollars per year to support the activities of the Beirut Bar association^{xxxvi}, the Lebanese State is not anymore involved in the legal aid system in Lebanon in terms of budget. The Ministry of Justice has no implication as to Legal aid, neither in the texts nor in practice.

In Lebanon, legal aid is mainly delivered

through the Bar Association Legal Aid Committees, and through special projects operated by local NGOs and international organizations.

NGOs, International organizations

Several civil society organizations are active in Lebanon in the area of access to justice; most of their work includes research, assessment, and legal counselling. Only few organizations provide legal representation, such as CLDH, AJEM or Caritas Migrant Center.

Hence, CLDH provides legal representation to vulnerable inmates since 2009. Progressively, the number of persons in prisons assisted every year by the NGO has increased from a few dozens to 100 per year since 2012. The legal assistance team of CLDH includes 2 lawyers and a detention coordinator. In 2013, they assisted 100 vulnerable inmates. The priority was given to persons who could be released immediately or were particularly at risk of unfair trials. Among the beneficiaries, the majority were Syrians (38%) who are in a very vulnerable situation because of their displacement to Lebanon. The rest were low-income Lebanese (24%), Palestinians (9%) and other nationalities, including detained migrant workers. In 2013, CLDH also offered legal assistance, including legal representation in front of the Lebanese and international institutions to 16 migrants at risk of slavery^{xxxvii}.

Also, Caritas Lebanon Migrant Center provides legal representation to migrant workers since 1994. Later on, the organization expanded its legal services to refugees. The two legal assistance departments include in total 8 lawyers (6 in Beirut, 1 in the North, 1 in the South). In 2013, the legal assistance department for refugees took 215 cases - at the time of the interview, statistics were not available concerning the number of cases followed by the legal assistance department for migrant workers. The vast majority of the cases followed by Caritas Lebanon Migrant Center are civil cases (birth registration, divorce, unpaid wages, etc.).

United Nations agencies also provide

legal representation, such as the UNHCR for refugees or the UNRWA for Palestinians, mostly in civil cases.

UNRWA launched its first Legal Aid Project in Lebanon in 2010 initially to provide free legal advice^{xxxviii} and free legal representation^{xxxix} to Palestine refugees from Lebanon (PRL), through a referral mechanism with Lebanese lawyers from the association PINACLE. Since March 2011, the project has greatly expanded its services to Palestine Refugees from Syria (PRS)^{xl} by providing them with legal assistance^{xli}, including legal representation^{xlii} since May 2013. UNRWA assisted in 2013 more than 700 Palestine refugees^{xliii}, in civil cases only for legal representation.

Legal Profession

Legal texts

The legal profession in Lebanon is governed by the Law Organizing the Profession of Lawyer^{xliv}.

Bar associations and their Legal Aid Committees

The first Bar Association was created in Beirut in 1919^{xlv}, followed in 1921 by the creation of a second Bar in Tripoli. The one in Beirut covers all the districts in Lebanon, except the district of North Lebanon, and the one in Tripoli covers the district of North Lebanon^{xlvi}.

Both Bar Associations are constituted of the following bodies: the General Assembly, the Council and the President^{xlvii}.

• The General Assembly is composed of

all member lawyers who paid their annual dues, and is the highest authority within the Bar. In addition to its ordinary annual meetings, the General Assembly meets in extraordinary meetings whenever the Bar Council considers it necessary or on request of one third of the lawyers who compose it.

• The Bar Council of Beirut is composed of twelve members, including the President. The Tripoli Bar has six members, including the President. The members of the Council are chosen among lawyers at the court inscribed on the general register of lawyers for at least ten years. The former presidents become automatically permanent members of the Bar Council, but have no voting rights. The Bar Council is the executive body responsible for taking decisions on all matters concerning the functioning of the Bar.

• The President of the Bar is the head of the Bar. He/she is chosen from among the members of the Bar Council who have a minimum of twenty years of practice. The two year mandate of the President can only be renewed for two years after its expiration, although as a matter of tradition, a member serves only one term as President.

The Beirut Bar association is organized into several commissions, including the Legal Aid Committee, created in 1993. The decision to establish a Legal Aid Committee was taken in response to a need to find representation for approximately 300 accused awaiting trial in prison, and in exchange for an agreement with the military court that judges would no longer appoint officers from the courtroom, many of whom were

not lawyers. Prior to the establishment of the Committee, legal aid had been provided through an ad hoc system based on direct requests from judges to the President of the Bar Association^{xlviii}. In 2000, legal aid lawyers represented approximately 2,700 persons accused of collaboration with the enemy following the withdrawal of Israel^{xlix}. In 2001, legal aid lawyers represented several persons arrested for demonstrating against the presence of Syrian secret service agents in the country. According to its internal regulation, the Committee meets every week to study the forwarded applications from the courts, approve or reject the applications, and assign lawyers to the approved cases^l. As mentioned above, the Beirut Bar Association's Legal Aid Administrative Committee, which comprises of 4 members, was renewed in 2014^{li}.

The Tripoli Bar Association is also organized into commissions^{lii}, including a Legal Aid committee. The board of the Tripoli Bar Association appoints the members of the committee, which must be three at least, including the president and the rapporteur. The duration of the committee is one year, starting on December 1st and ending on October 31. The board of the Bar Association is entitled to dissolve the committee and modify its membership or duties. The work of the committee is presided over by a lawyer chosen by the board of the Bar. In the presence of the president of the Bar, the meetings shall be presided over by him. The committee holds its meetings periodically or if need be, at the Bar headquarters after notifying the

secretariat. Any member of the board of the Bar is entitled to attend the meetings of the committee. The Tripoli Legal Aid Committee undertakes to study all the difficulties that hinder the Legal aid in order to find solutions for them, whether on the practical or the theoretical level. In addition to this consultative and organizational role, the committee receives all the demands transferred to it by the president of the Bar Association to study them and suggest the names of the lawyers who shall undertake the defense of the concerned persons, then returns them to the president of the Bar Association in order to issue the authorization in the name of the recommended lawyer.

According to the law organizing the profession of lawyer, no lawyer may practice unless the lawyer is registered in one or the other, but not in both, of the Bar associations^{Liv}. An application by a lawyer to be added to the roll of either trainee lawyers or practicing lawyers is submitted to the council of the competent Bar association, which reviews and makes a decision on the application, with recourse by the applicant to the Court of Appeal^{Lv}.

Trainee lawyers

On July 31, 1931, the system of internship started in the Beirut Bar as per a decision by the Council of the Bar. Before a lawyer can be added to the roll of practicing lawyers, he/she must undergo a training period of three years as a trainee lawyer in the office of a lawyer practicing before the Court of Appeal^{Lv}.

A trainee lawyer may appear in the name of the practicing lawyer before first instance courts, committees and boards of different types, Courts of appeal for offenses on behalf of the defendants only, and criminal courts on behalf of the defendants^{Lvi}. As per the by-laws of the Beirut Bar Association, the intern has to have a record of sessions between 150 to 300 sessions in 3 years.

The Council of the Bar organizes conferences for trainee lawyers, and a trainee lawyer who has not attended two thirds of the conferences may have the training period extended by a decision of the bar association council.^{Lvii}

Lawyers

The UN Basic principles on the role of the lawyers^{Lviii} state in their preamble that:

“adequate protection of the human rights and fundamental freedoms to which all persons are entitled, be they economic, social and cultural, or civil and political, requires that all persons have effective access to legal services provided by an independent legal profession”.

Thus, lawyers play a fundamental role in securing the rule of law, and guaranteeing the effective protection of human rights in many various aspects:

- Advancing and improving the protection of the law at the national, regional and even international level through jurisprudence.
- Ensuring that all persons suspected of having committed or being connected with a criminal offence are treated in

accordance with human rights standards at every stage of the investigation and proceedings.

- Redressing the power imbalance between authorities and detained
- Preventing torture and other ill-treatment. Indeed, the lawyer will often be the first person the detainee can inform about ill treatment and/or torture.
- Addressing arbitrary or improperly justified detention.
- Providing an alternative record of interviews to ensure the integrity of any evidence gathered.

All these safeguards shall be made available to all persons, regardless of financial or other constraints, through Legal aid. As stipulated in the Law Organizing the Profession of Lawyer, lawyers may plead on behalf of a client pursuant to an ex officio appointment by the president of the bar as to provide legal aid upon request of the court^{Lix}.

Lawyers must, in all of their acts, comply with the principles of honour, honesty and integrity and fulfill all the duties imposed by law and traditions of the Bar Associations. Ethics and discipline are both enshrined in the Law organizing the Profession of Lawyer^{Lx}, the Internal Rules of the Bar Associations^{Lxi}, and the Code of Ethics of the Legal Profession^{Lxii}.

Thus, the Law Organizing the Profession of Lawyer stipulates that lawyers shall be responsible towards their client for carrying out their task in accordance with the provisions of the laws and the terms of their mandate^{Lxiii}. A Disciplinary Council is chaired by the President of

the Bar Associations or his/her delegate. In case of a slight contravention by a lawyer, the President of the Bar shall send him a fraternal warning, without bringing him/her before the Disciplinary Council. A lawyer may be brought before the Disciplinary Council only on the basis of a decision taken ex officio by the President or following a complaint or information submitted to him/her. Lawyers may be subjected to the following sanctions: a warning, a blame, a suspension from practice for a maximum period of three years, or the striking of his/her name of the roll for five full years. Disciplinary decisions are subject to appeal.

Moreover, the Beirut Bar Council adopted in February 2002 the Code of Ethics of the Legal Profession, which focuses more on ethics and moral guidelines that on specific requirements governing the conduct of lawyers. One of the ten main “rules” that should follow lawyers according to the Code of Ethics of the Legal Profession is related to legal aid:

“the lawyer will do his best and will comply with his/her obligations, even if his services are free of charge”^{Lxiv}

Procedure

Civil and Penal cases

Legal aid in Lebanon may be provided in both civil and penal cases. Bar associations' Legal Aid Committees receive more penal cases than civil ones.

Civil cases

The procedure to request legal aid in civil cases is enshrined in details in the Code of Civil Procedure.

The legal aid request is submitted in three copies, exempt from all the 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.^{Lxv}

The second copy of the request is then sent to the General Prosecution which shall give its opinion within five days, and the third copy is sent to the other opponent who is entitled to give his opinion also within five days.^{Lxvi}

Afterwards, the court calls for the

petitioner and his opponent to a session held at the deliberation room. Then the court examines the demand and the conditions of acceptance as for the form and the subject before giving the decision of acceptance or rejection. This decision, which is notified to the opponents and to the General Prosecution is not subject to appeal.^{Lxvii}

If the request is approved, the court decision is then presented to the relevant Bar association Legal Aid Committee (Beirut or Tripoli) which will assign a lawyer for the case.^{Lxviii}

During the interviews, all agreed on the fact that the procedure required for legal aid in civil cases is too difficult, and discouraging.

Penal cases

As mentioned above, this report focuses on the legal aid system for penal cases. Concerning penal cases, two situations arise as follows:

1)The application is referred from the court handling the conflict namely: Criminal Court, Justice Council, the Appeal Court, the Individual Penal Judge, or the Investigation Judge. The application is referred from the relevant court, in front of which the accused announces the inability to assign a lawyer. Then, the relevant court processing the case forwards a letter to the relevant Bar Association (Beirut or Tripoli) requesting the allocation of a defense lawyer for the accused.

At this stage of the procedure, two main concerns arise related to some of the

courts' practices and to the length of the procedure.

Regarding the courts' practices, it has been reported during the interviews conducted in the framework of this research, that some judges occasionally advice the accused not to take a lawyer in order to speed up the process and the trial. Moreover, this research revealed that in some cases, it happens that the sessions continue without any appointed lawyer for the accused, in flagrant violation with the right to a fair trial. Lawyers who are present in the courtroom may also be requested by the judge to represent the accused; in such case, the appointed lawyer if he/she agrees, will work on a pro bono basis and not receive any fees.

On the other hand, another concern is related to the delay in appointing a lawyer. Thus, once the court processing the case forwards a letter to the relevant Bar Association, the latter in some cases tend to take too long to appoint a lawyer, which has severe consequences for the accused, as the audiences will be postponed as long as no lawyers will be appointed.

2)Personal request

In such cases, the application is referred from the Prison Officer where the accused is present. When the request is forwarded directly from the detainee, the accused is unable to assign a lawyer and consequently personally presents an Exemplary Letter to the relevant Bar Association through the Prison Officer aiming at assigning a lawyer who would

mobilize the legal file of the detainee.

At the Beirut Bar Association, even though no statistics were available concerning the percentage of applications from the courts and personal requests, following information provided during the interviews, the applications from the courts are mostly referred to the Bar; only few personal requests are referred to the Bar. To this regard, the newly appointed President of the Legal Aid Committee considered during the interview establishing a system of regular visits from members of the Committee to the detention places, in order to ensure a better communication with the Prison Officers, and set up a more effective strategy.

Distribution of cases to lawyers

Once the decision of granting the legal aid is notified to the Bar Association, the President of the relevant Bar Association will appoint a lawyer to defend the interests of the beneficiary^{Lxix}. In this regard, no criterias have been set up concerning the distribution of cases to lawyers.

Fees

When taking legal aid cases, any attempt by the appointed lawyer to receive fees from the beneficiary is deemed a behavioral offense that must be pursued.

Several lawyers interviewed during this research deplored the fact that in Lebanon, legal aid is usually perceived as an act of charity rather than a right. Thus, the culture of volunteerism is unfortunately being lost in Lebanon.

Delivery of legal aid is funded exclusively from Bar Association revenues, and grants from international donors. In 2013, the European Union made available €1.000.000 under a call for proposal “Support to Legal Aid in Lebanon”^{Lxx}.

Throughout this research, it has not been possible to clearly evaluate the funds dedicated to the legal aid at the Beirut Bar Association. Yet, the newly appointed President of the Legal Aid Commission estimated that a total yearly budget of 240,000 US\$^{Lxxi} would be needed to meet the legal aid demand received at the Beirut Bar Association. Since 2014, in conformity with the action plan of the newly elected President of the Bar, lawyers receive from the Bar association 400 US\$ per case, instead of 250 US\$ previously. This amount is not a yearly fee, but a lumpsum per case and per instance regardless the duration of the case.

At the Tripoli Bar Association, 30 Millions Lebanese pounds (20,000 US Dollars) of the Bar’s annual budget are allocated to the Legal Aid Committee. Depending on the scope of the procedure, lawyers receive from the Bar association between 300 000 and 500 000 LBP per case. This budget only allows the Tripoli Bar Association to take approximately 90 cases per year, which is vastly insufficient in order to cover the legal aid need, taking into consideration that the Tripoli Bar Association covers the district of North Lebanon, where are located several prisons (Tripoli, Halba, Amioun and Zgharta) suffering overcrowding, and therefore with a high percentage of

potential inmates in need of a lawyer.

Lawyers used in the past to receive the fees following the submission of a certificate providing that the case is closed at the Tripoli Bar Association, or the submission of a report at the Beirut Bar Association. Nowadays, in practice, lawyers receive their fees regardless the submission of certificates or reports. Unfortunately, it was well established during the interviews that some lawyers do not follow the case until the latter is closed.

Taking into consideration that some cases may take more than a year, this amount is barely sufficient to cover the costs of photocopying the court file, transportation fees and other related costs. It must be noted here that the procedure within the different courts is not homogeneous; for legal aid cases, photocopies of the court file are free in front of the military courts, as in other courts the photocopies must be paid. One of the objectives of the new appointed President of the Legal Aid Committee is to set up meetings with the Courts in order to request that photocopies of the court file are free of charge when the accused is a beneficiary of the legal aid.

Lack of selection criteria: trainee lawyers

The number of lawyers and trainee lawyers available to provide legal aid is quite large in Lebanon. In 2014, the membership was comprised of approximately 11,000 lawyers.

Even though it is not stipulated in any

regulations pertaining to the legal aid system in Lebanon, in practice the majority of legal aid cases within the bar associations are assigned to trainee lawyers.

Through CLDH observations within its Legal Assistance program, testimonies of detainees, and the information provided during the interviews conducted in the framework of this research, most trainee lawyers who are appointed lack experience and legal skills when dealing with criminal cases. This is even more problematic taking into account that no specific supervision of the trainee lawyers, apart from the lawyers supervising their internships, is put in place for legal aid cases. The trainee lawyers are not allowed to sign the conclusions; the lawyer with whom he/she is trained is responsible for signing the conclusions, which means in theory that he/she is also responsible to supervise the case followed by the trainee.

Several trainee lawyers interviewed in the framework of this research, considered that legal aid cases should be a mandatory section of the three year internship.

No limit of cases per lawyer

In theory, there is no mention of the number of cases lawyers are allowed to take each year. In practice, it was clearly mentioned during the interviews that no limit of cases are imposed to the lawyers willing to be appointed to follow legal aid cases. There are reportedly some lawyers who can take up to 50 cases at the same time, which concretely raises serious

doubts concerning the effectiveness of the follow up of the cases.

Follow up and supervision of lawyers

Among the detainees who benefited in 2012 from CLDH legal assistance program, 59% of them did not have a lawyer, and 41% encountered problems with the lawyers who had been appointed to their defense (the lawyer pled guilty, the detainee did not have anymore the financial means to pay the lawyer, the lawyer was not dealing with the detainee's release, the lawyer did not attend the court sessions...) ^{Lxxii}

A major concern related to the legal aid system in Lebanon is related to the follow up and supervision of the appointed lawyers. As regards to supervision, it has already been mentioned above that no specific supervision is put in place for appointed trainee lawyers. It is rather left entirely to the lawyers with whom the trainee lawyers are doing their internships, which is compatible with the statutory internship scheme, but inadequate in practice.

Concerning the follow up of the appointed lawyer's work in legal aid cases, the actual follow up system is not allegedly effective. In its early stages, the Legal Aid Commission of the Beirut Bar Association maintained a committee of experienced lawyers to monitor legal aid cases and provide guidance and advice to lawyers and trainee lawyers. This Committee no longer exists. Presently, within the Beirut Bar Association, upon the completion of a case, a Report on case proceedings must be submitted to the Committee

by the appointed lawyer. The following information is Included in the Report ^{Lxxiii}:

- the appointed lawyer's name
- the date of appointment
- the client's name and nationality
- the court and case number
- the case type
- the number of hearings attended
- a summary of the case proceedings
- the date of judgment (with a summary of the court decision attached)
- a place for notes by the President of the Commission

Taking into consideration the number of yearly cases, and information gathered during the interviews, these reports are not in all cases submitted by the appointed lawyers, and do not allow a relevant follow up of the cases. On the other hand, when the reports are submitted, there is no systematic supervision or oversight of the lawyers and trainee lawyers appointed in specific cases by the Committee, which does not either, seek evaluation feedback from the clients.

In recognizing this lack of follow up, the newly appointed President of the Beirut Bar Association Committee initiated a throughout restructuring of the Committee, by creating five Sub Commissions; one of them will be dedicated to the follow up of the cases and supervision of lawyers. The final report will be replaced by a follow up table to be filled by the appointed lawyer from the beginning of the case, stating for instance each audience's attendance. This is an encouraging step towards a more effective follow up of the

cases. However, the effectiveness of this measure also depends on the work and follow-up of the tables by the members of the Sub Commission.

Complaints against lawyers

Complaints can be filed against lawyers to the President of the Bar Association, as mentioned above. Even though several breaches of appointed lawyers have been reported during the course of this research, it appeared that very few actions had been taken in order to file a complaint against lawyers. Following information provided during the interviews, complaints were informal, and in such case another lawyer was appointed, and the only measure taken was the removal of the name of the lawyer who is subject to the complaint from the list of legal aid lawyers.

Lack of administrative support

At the Beirut Bar association, the person in charge of that support is also in charge of the Bar's other commissions. All information collected during the interviews converges to assert that more human resources would be needed in view of the overload of tasks.

Cessation of the legal aid

The legal aid may cease due to the following reasons:

1) Death of the beneficiary. In this case, the cessation does not have a retroactive effect. If the successors need the aid in order to proceed in the case, they must submit a new demand. ^{Lxxiv}

2) Annulment of the decision of granting the legal aid. The court granting the legal

aid may, at any stage of the lawsuit, even after the conclusion of the trial and the procedures for which the aid was granted, annul its decision by itself or upon the demand of the General Prosecution, the Ministry of Finance or one of the opponents, if it was proved that the circumstances for which the aid was granted were not valid or changed. In this case, the aid ceases with a retroactive effect and the opponent obliges the beneficiary to pay the advanced charges and fees immediately, and if it was proved that the beneficiary committed fraud and forgery, he shall be transferred to the competent penal authorities. ^{Lxxv}

Conclusions and Recommendations

Even though the Bar Associations of Beirut and Tripoli are committed to the provision of legal aid in Lebanon, the current system of delivering legal aid does not result in the systematic provision of quality legal representation to the clients.

1. There are no statistics on Legal aid in Lebanon.

Recommendation: To the Beirut and Tripoli Bar Associations
Establish a proper system of data gathering and analysis, in order to publish a yearly report with statistics on legal aid

cases. Establish a scale of fees payable to the legal aid appointed lawyers.

2. The Legal aid system relies too heavily on the appointment of trainee lawyers, who, by definition, do not have the experience required in certain cases, and in need of supervision and mentoring. Legal Aid system lack a proper follow up and monitoring system.

Recommendation: To the Beirut and Tripoli Bar Associations
Establish a program to monitor cases, supervise lawyers and mentor trainee lawyers who are appointed to represent

legal aid clients.

Efforts should be made to foster the involvement of experienced lawyers through appropriate recognition of their services.

3. The present sources of funding available to the Bar Associations for the delivery of legal aid are not secured and uncertain. In addition, they are way too low for the Tripoli Bar Association to respond to the legal aid needs in the region. There is no government involvement in terms of budget; consequently the fees paid to lawyers are way too low.

Recommendation: To the Lebanese Government and funding agencies
The funding agencies should concentrate their efforts on improving the legal aid system in Lebanon in the following areas: human resources management within the Bar associations and lawyers fees. The Lebanese Government should allocate sufficient budget for the provision of legal aid, based on the statistics and a scale of fees established by the Bar associations.

4. Legal aid is still not recognized as a fundamental right in Lebanon

Recommendation: To the judges
Lebanese judges should not pursue the investigation of an accused that does not have an appointed lawyer to represent him/her.

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- Association for the prevention of torture (APT), Legal Safeguards to Prevent Torture The Right of Access to Lawyers for Persons Deprived of Liberty, March 2010.

Available online at: http://www.apt.ch/content/files_res/LegalBriefing2_Lawyers.pdf

- Access to Justice – Concept Note for Half Day General Discussion, Endorsed by the Committee on the Elimination of Discrimination against Women at its 53rd Session.

Available online at:

<http://www.ohchr.org/Documents/HRBodies/CEDAW/AccessToJustice/ConceptNoteAccessToJustice.pdf>

Websites

- Beirut bar association

<http://www.bba.org.lb/index.php?lang=EN>

- Tripoli bar association

<http://www.nlbar.org.lb/English/Index.aspx>

Annex 1. Code of Civil Procedures selected articles

Article 425 - If one of the opponents is unable to assume the charges and fees of the trial due to financial difficulties, he can apply for Legal aid.

Article 426 - Legal aid is granted to natural persons of the Lebanese nationality, as well as foreigners residing usually in Lebanon on condition of reciprocity.

Article 427 - It is possible to apply for the legal aid in order to sue or defend in the first degree action and in appeal, even if it was for the first time. The submission of the demand during the appeal delay stops the delay until the decision passed in this regard is notified to the petitioner.

Article 428 - The Legal aid request is submitted in the form of a petition exempt from fees and financial stamps, in three copies. It is deposited at the registry of the court that will look into the case. The clerk keeps one of the copies and sends the second one to the opponent who may give his written observations within five days also. If the case will be submitted to the single judge, the Legal aid request must be submitted to the first degree chamber located in the same region as the single judge.

Article 429 - Is attached to the petition a certificate issued by the revenues and treasury departments at the Ministry of Finance (General Direction of Finance) stating the direct taxes paid by the petitioner and a certificate from any local authority confirming his neediness.

Article 430 - The Legal aid is refused, whatever the financial condition of the petitioner is, if it was clear that his claim or defense is unacceptable or with no foundation. It is possible to refuse the aid demand submitted to the Court of Cassation if it does not mention any valid reason for cassation.

Article 431 - The court calls the petitioner and his opponent to the deliberations room and is entitled to look into the demand even in case of their absence.

Article 432 - The registry of the court notifies the opponents and the General Prosecution of the content of the decision passed by the court. Such decision is not subject to appeal.

Article 433 - The decision of granting the Legal aid is notified to the president of the Bar Association who shall appoint a lawyer to defend the interests of the beneficiary.

Article 434 - The lawyer offers his help gratis. He/She is not entitled to receive or try to receive any remuneration or profits from the beneficiary. However, the court may

impose to the other opponent to assume the legal fees if he loses the case without being granted the legal aid.

Article 435 - All the registry procedures related to the beneficiary are free and all the expenses entailing from the necessary measures pertaining to the inquiry fall upon the treasury.

Article 436 - The court granting Legal aid may, in any case, even before the original case is brought, annul its decision by itself or upon the demand of the General Prosecution or the Ministry of Finance, if the circumstances under which the aid was granted changed or were proved to be invalid. In this case, the aid ceases with a retroactive effect.

Article 437 - Legal aid ceases with the death of the beneficiary. In this case, the cessation does not have a retroactive effect. The successors of the beneficiary may request to be given the legal aid if need be.

Article 438 - If the beneficiary wins the case, his opponent is bound to pay the charges, including the advanced charges paid for investigation procedures.

Article 439 - The opponent who was granted Legal aid continues to benefit from it for the execution of the judgment or for defense in case an appeal was lodged against the decision.

Article 440 - If the beneficiary loses the case, he shall not assume the fees of the procedures that were taken in his favor and is not bound to pay back the sums advanced by the treasury unless his good financial situation was proved later.

Article 441 - The head of the execution Department may grant Legal aid for the execution of the judgment according to the previous rules.

Annex 2. Law organizing the profession of lawyer , selected articles

Article 4 – There are two Bar Associations for lawyers in Lebanon, one in Beirut, one in Tripoli. Lawyers whose offices are situated in all the mohafazats except the mohafazat of North Lebanon are registered in the Beirut Bar Association. Lawyers whose offices are situated in the mohafazat of North Lebanon are registered in the Tripoli Bar Association. No lawyer may practice in Lebanon without being registered in one of the two Associations. No lawyer may be registered in both Associations or in one of those and a foreign Bar Association. Any lawyer whose name is registered on the roll of lawyers must have an office within the area of the Association to which he belongs.

Article 7 – Applications for registration should be submitted to the Council of the competent Bar Association together with the documents ascertaining that the conditions provided for in Article 5 have been fulfilled. The Council of the Bar shall take a decision about the application within two months of its submission, and shall give the grounds for its decision. Should the Council decide to investigate the behaviour of the applicant, the period shall be extended for four months. Should the said period end without a decision of acceptance or refusal being taken, the applicant is entitled to refer the matter to the Civil Court of Appeal of the mohafazat in which the Bar Association he is applying to is located.

Article 8 – The recourse is submitted to the Court of appeal within thirty days of the notification to the applicant of the decision of refusal or of the expiry of the four months period indicated in the preceding Article. As soon as the recourse is submitted to the Court of appeal, it requests the file of the applicant from the Bar Association and the Council is bound to send it within a maximum of two weeks to the Court together with the remarks deemed fit.

Article 9 – Whenever the Court of appeal examines the applications for registration, two members of the Council of the Bar appointed by the President sit together with the members of the Court. Should one or both representatives of the Bar Association not attend, or should they not be appointed, the Court shall hear the matter with its usual members.

Article 10 – When the decision in favour of the registration of the lawyer, whether on the roll of trainees or on the roll of practicing lawyers is published, the lawyer takes the following oath before the Civil Court of appeal, in the presence of the President of the Bar or of his representative:

“I swear by God Almighty, and by my honour, to respect the secrecy of my profession, to work for it faithfully, to preserve its ethics and traditions, to respect its laws and rules, to abstain in words or in writing, whether in pleadings or as counsel, from anything that

may be contrary to morals or ethics or that may endanger national security, and to respect the Judiciary and to behave in all my undertakings in a way that inspires trust and respect”.

No lawyer may begin to practice before taking this oath.

Article 11 – (amended by law n 18 dated 18/12/1978 and by law n 42 dated 19/2/1991). The lawyer who registers in one of the two Bar Associations shall undergo a training period of three years in the offices of a lawyer practicing before the Court of appeal. This provision does not apply to the magistrate who spent in the judiciary a period equal to the training period nor to the professors who taught law subjects for three years at least nor to lawyers before the Court of appeal who are requesting to renew their registration.

Article 14 – The application for registration on the roll of trainees shall be submitted to the President of the Bar who transmits it to one of the members of the Council of the Bar who draws up a report indicating whether the legal conditions have been met. The application together with the report and documents is transmitted to the Council which takes its decision in accordance with the provisions of this law.

Article 24 – The trainee lawyer may plead during his training in the name of the lawyer in whose office he is registered before the following courts:

1. Courts of first instance, committees and councils whatever their type.
2. The Court of appeal for minor offences, but only for the defendants
3. The Criminal Court, for the accused

Article 26 – The Council of the Bar organises conferences for the trainees at the dates and times set by the President. The President or his delegate chairs the conferences, acts as moderators and draw up a list of attendance of the trainees. A trainee who has not attended at least two thirds of the conferences may have his training period extended by a decision of the Council of the Bar.

Article 34 – The organs of the Bar Associations shall be formed of the General Assembly, the Council and the President.

Article 65 – The lawyer shall be entrusted to plead before the courts by an official power given to him by his client, or by an ex officio appointment by the President of the Bar.

Article 66 – The lawyer shall be appointed ex officio by the President of the Bar to plead in the following circumstances:

1. When granting judicial assistance to a person
2. When several lawyers have refused a case, although it is a just cause
3. When the Criminal court of the juvenile court request the appointment of a lawyer

for an accused or a person under-age who has not appointed a lawyer.

4. If a lawyer dies, if his name is struck off the roll, if he is arrested, if his property is attached or if there is an impossibility for him to carry out the work. In this case, the mandate of the ex officio lawyer is limited to taking temporary measures to protect the interests of the client of that lawyer until he chooses another lawyer.

Article 87 – The lawyer shall be responsible towards his client for carrying out his task in accordance with the provisions of the laws and the terms of his mandate.

Annex 3. Report template Beirut Bar Association

لقابة المحامين
بيروت
لجنة المعونة القضائية

CAI-RP-C-CH _____
CR _____

تقرير عن سير الدعوى

المحامي المكلف : _____
 تاريخ ورث التكاليف: _____ طالب المعونة وماله: _____
 جنسية: _____ الخصم : _____
 نوع + رقم الدعوى: _____ المحكمة: _____
 هذه الطلقات التي حضرها المحامي المكلف: _____
 انقضاء عن سير الدعوى + تاريخ الحكم: _____

ملاحظات اضافية: _____

ارجاء، ايداع المستندات التالية مع هذا التقرير: (1) صورة عن التكاليف (2) صورة عن الفقرة العكسية
 التوقيع : _____ التاريخ : _____

لجان لجنة المعونة القضائية

تاريخ الرد: _____ توقيع المستشار: _____
 ملاحظات : _____ توقيع رئيس اللجنة : _____

Translation

Bar Association
Beirut
Committee of Legal Aid

Report about the processing of a case

Appointed lawyer:

Date and number of appointment:

Applicant for aid identity:

Nationality:

Complainant:

Type+number of the case:

Court:

Number of sessions attended by the lawyer:

Summary of the process+date of judgement:

Additional remarks:

Kindly attach to this report the following documentation: 1) copy of the appointment – 2) copy of the judgement

Signature:

Date:

Part to be filled by the legal aid committee

Date of receipt:

Signature of recipient:

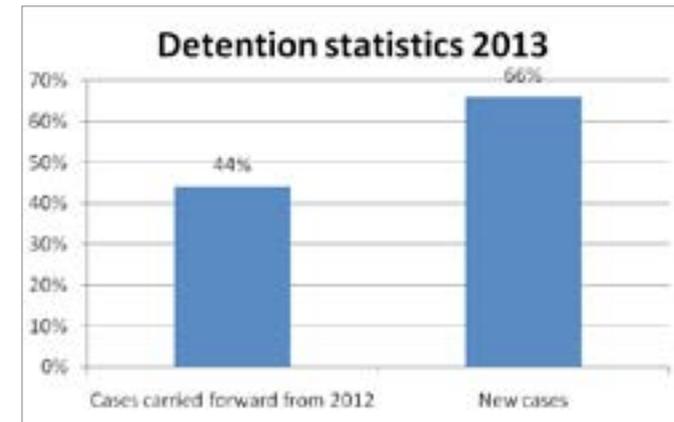
Signature of the Committee's President:

Comments:

Annex 4. CLDH Legal Assistance Program to vulnerable inmates – 2013

In 2013, CLDH continued to visit Lebanese prisons and to meet victims of arbitrary detention and torture. It also received many cases referred by relevant prison visitors, families and relatives of inmates. CLDH continued to document and follow up their cases in accordance with the demands and specific needs of the beneficiaries of the program.

Of all the cases that CLDH assisted to in 2013, 66% percent were new cases, while 44% were a follow up from 2012. As a direct result of the legal assistance activities, 70% of the assisted cases were released.

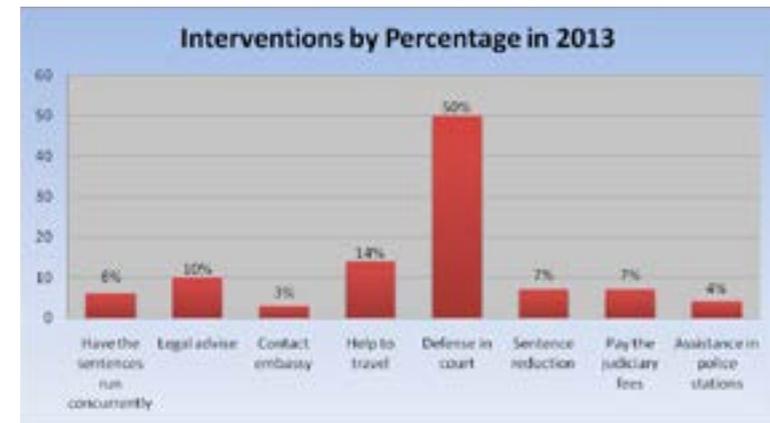
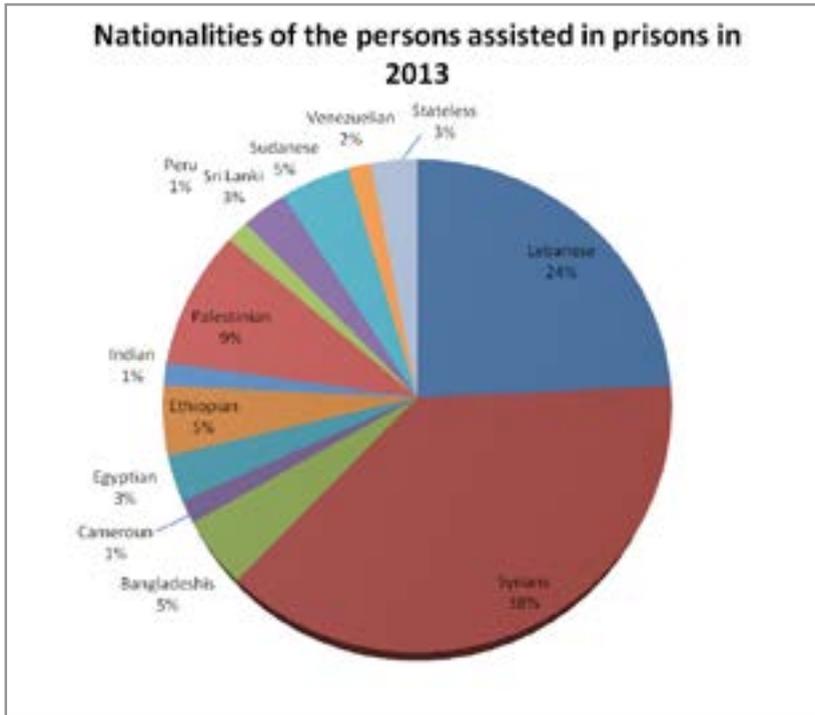


With the increasing number of Syrian refugees in Lebanon and with the inadequate legislative framework of Lebanon regarding refugees, an increased number of Syrian citizens was assisted by CLDH legal assistance program.

The legal assistance program implemented by CLDH covers the following interventions to inmates in Lebanese prisons:

- Legal advice;
- Contacting the corresponding embassy;
- Helping travel;
- Defense in court;
- Sentence reduction;
- Paying judiciary fees;
- Assistance in police stations;
- Having the sentences run concurrently.

The percentage of these interventions can be seen in the following chart:



i AJEM Seminar, Legal Assistance and Legal Aid in Lebanon, held on April 25-26th, Beirut.

ii CLDH report, Legal assistance to vulnerable detainees in Lebanese prisons, 2012, p. 16

iii Address of the President of Beirut Bar Association, Lawyer Georges Jreij, at the opening of the retreat of the Bar Council on Friday, December 13th, 2013 – the convent Saydet El Jabal, Fatqa. Available online at: http://www.bba.org.lb/news_details.php?news_id=MTUzNQ==&=Mg

iv The new members of the Legal Aid Administrative Committee are: President, Georges Fiani – Vice President, Jean Abizeiddaou – Secretary, Edouard Tayoun – Rapporteur, Ali Mchaymich.

v CLDH Report, Prisons in Lebanon: humanitarian and legal concerns, 2010. CLDH report “ Prisons in Lebanon: Humanitarian and Legal Concerns”, assesses the overall detention conditions in Lebanese prisons as well as the legal situation of prisoners. Important issues are addressed such as the practice of torture during interrogation as well as human rights violations perpetrated by the General Security or by the intelligence services of the army within the Ministry of Defense.

vi CLDH Report, Arbitrary detention and torture in Lebanon, 2013.

vii A detention is arbitrary when it does not comply with national legislation, other relevant international standards set forth in the Universal Declaration of Human Rights and relevant international instruments ratified by Lebanon.

viii Article 9 “Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”

ix Decree law No 90, September 16, 1983

x Decree law No 150, September 16, 1983

xi Decree law No 7855/61, October 16, 1961

xii Act No 328, August 2, 2001

xiii Decree No 10434/75, June 14, 1975, amended several times, notably in 1980 – Act No 28, September 27 - , 1993 – Act No 259, October 6 - , 2000 – Act No 227, May 31.

xiv Established under article 80 of the Constitution

xv Military courts are regulated by Law No. 24, April 13, 1968

xvi On May 5th, 1997, the United Nations Human Rights Committee expressed its concerns about “the broad scope of the jurisdiction of military courts in Lebanon, especially its extension beyond disciplinary matters and its application to civilians”, but also about the lack of procedures followed by these courts.

xvii Article 9 of the Lebanese Constitution

xviii <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

xix Article 2 CEDAW “States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake: (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle; (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women; (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination; (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation; (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise; (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women; (g) To repeal all national penal provisions which constitute discrimination against women.”

xx Article 15 CEDAW “States Parties shall accord to women equality with men before the law. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

xxi “Access to Justice – Concept Note for Half Day General Discussion Endorsed by the Committee on the Elimination of Discrimination against Women at its 53rd Session”. Available online at: <http://www.ohchr.org/Documents/HRBodies/CEDAW/AccessToJustice/ConceptNoteAccessToJustice.pdf>

xxii United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, adopted in April 2012, E7CN.15/2012/24. Available online at: <http://www.un.org/Docs/journal/asp/ws.asp?m=E/CN.15/2012/L.14/Rev.1>

xxiii Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August to 7 September 1990, UN Doc A/CONF 144/28/Rev 1 at 118 (1990) <http://www1.umn.edu/humanrts/instree/i3bprl.htm>

xxiv GA Res. 43/173, annex, 43 UN GAOR Supp No 49 at 298, UN Doc A/43/49 (1988)

xxv GA Res 40/33, annex, 40 UN GAOR Supp No 53 at 207, UN Doc A/40/53(1985).

xxvi GA Res 40/33, annex, 40 UN GAOR Supp No 53 at 207, UN Doc A/40/53(1985).

xxvii Commentary: Rule 15.1 uses terminology similar to that found in rule 93 of the Standard Minimum Rules for the Treatment of Prisoners. Whereas legal counsel and free legal aid are needed to assure the juvenile legal assistance, the right of the parents or guardian to participate as stated in rule 15.2 should be viewed as general psychological and emotional assistance to the juvenile – a function extending throughout the procedure.

xxviii See Annex 1

xxix CCP, Legislative Decree No. 90, September 16, 1983, as amended by Law No. 440, July 29, 2002, published in the Official gazette No. 40, October 6, 1983

xxx CPP, Article 425 - If one of the opponents is unable to assume the charges and fees of the trial due to financial difficulties, he can apply for the legal aid.

xxxi CPP, Article 426 - The legal aid is granted to natural persons of the Lebanese nationality, as well as foreigners residing usually in Lebanon on condition of reciprocity.

xxxii In 2012, the majority of the persons assisted by CLDH lawyers were from the following nationalities: Algerian, Nigerian, Egyptian, Jordanian, Madagascar, Bengali, Iraqi, Sudanese, Syrian, and stateless.

xxxiii CLDH Report, Legal assistance to vulnerable detainees in Lebanese prisons, 2012, p.9

xxxiv “Coalition of Civil Society Organizations in Lebanon for the UPR – CCSOL”, Submission to the Office of the High Commissioner for Human Rights on the occasion of the 9th session of the UPR, December 2010, XIII. Right to Fair Trial, paragraph 23.

xxxv Frontiers, Double Jeopardy: Illegal Entry – Illegal detention, p. 28.

xxxvi “Legal Aid in Lebanon”, Strengthening the independence of the judiciary and citizen access to justice in Lebanon, a USAID Project implemented by National Center for State Courts p. 16

xxxvii See Annex 4

xxxviii Over 2012 (until November 2012): 190 cases, and over 2013 (until November 2013): 159 cases

xxxix Over 2012: 102 cases and over 2013: 104 cases

xl UNRWA assistance provided to PRS such as: visa applications; regularization of status in the country and right to stay in Lebanon; civil registration; working conditions in Lebanon and loss of documentation;

xli Over 2012 (until November 2012): 316 cases, and over 2013 (until November 2013): 977 cases

xlii 3 cases since May 2013

xliii for representation 90% women but for counseling especially PRS 90% are men.

xliv Law organizing the profession of lawyer, N8/70 with its amendments, Available online at: [http://www.bba.org.lb/admin/document/Law%20Organizing%20the%20Profession%20of%20Lawyer%20\(abd7e6dc0d527ccad9566a2618440b6\).pdf](http://www.bba.org.lb/admin/document/Law%20Organizing%20the%20Profession%20of%20Lawyer%20(abd7e6dc0d527ccad9566a2618440b6).pdf)

xlv Decision of the General Administrative Governor No. 192 issued on February 6th, 1919

xlvi Tripoli Bar Association was established by Decree No. 655 of 1921

xlvii Law organizing the profession of lawyer, Title two – Organisation and management of the bar associations, Article 34

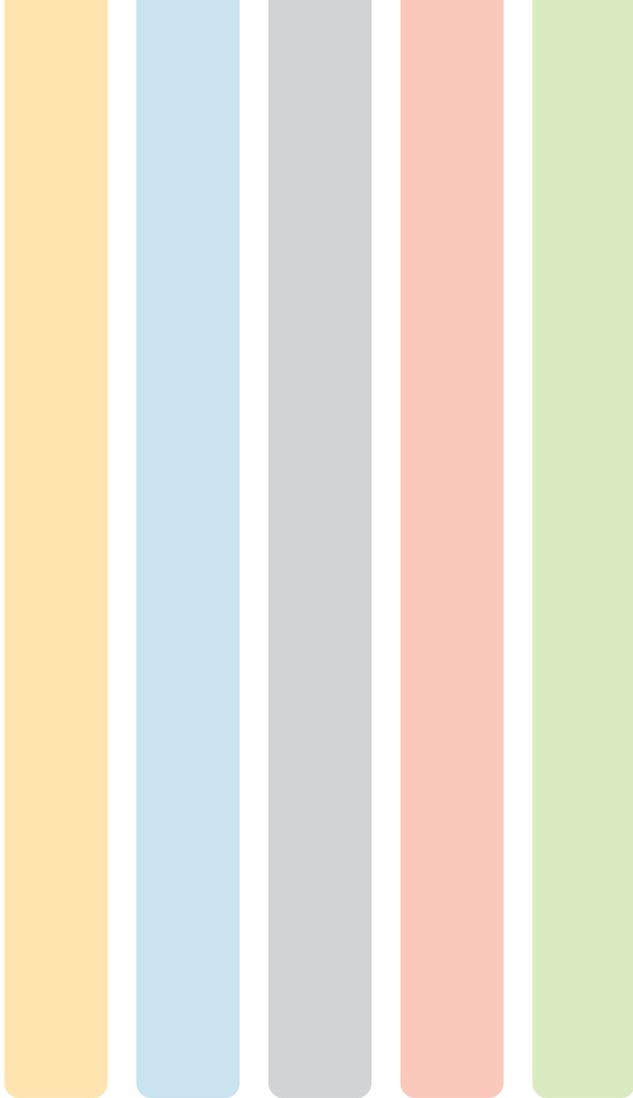
xlviii See Report National Center for States Courts (NCSC) Legal Aid in Lebanon, Project to strengthen the independence of the judiciary and citizen access to justice in Lebanon, (3) Legal Aid Commission, p. 16

xlix Daily Star, Military Court opens SLA trials, June 6, 2000. Available online at: <http://www.dailystar.com.lb/News/Lebanon-News/2000/Jun-06/29155-military-court-opens-sla-trials.ashx>

L Beirut Bar Association Website, The Legal Aid Committee, <http://www.bba.org.lb/subpage.php?cat=MTAZ>

Li The new appointed members are: President, Georges Fiani – Vice President, Jean Abizeiddaou – Secretary, Edouard Tayoun – Rapporteur, Ali Mchaymich.

- Lii Social Committee, Arab and International relations Committee, Committee of public freedoms and Human Rights, Informatics Committee, Lawyers magazine Committee, Prisons Committee, Scientific and social committee.
- Liii Law Organizing the Profession of Lawyer - Article 4
- Liv Law Organizing the Profession of Lawyer - Articles 7 – 10, 14
- Lv Law Organizing the Profession of Lawyer - Article 11
- Lvi Law Organizing the Profession of Lawyer - Article 24
- Lvii Law Organizing the Profession of Lawyer - Article 26
- Lviii Basic Principles on the Role of Lawyers, Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990. Available online at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/RoleOfLawyers.aspx>
- Lix Law Organizing the Profession of Lawyer - Articles 65-66
- Lx Law Organizing the Profession of Lawyer, Title Four – Discipline of lawyers, Articles 96 - 109
- Lxi Beirut Bar Association Internal Rules, Disciplinary Council, Articles 105 – 111.
Available in French at:
[http://www.bba.org.lb/admin/document/Le%20R%C3%A8glement%20Int%C3%A9rieur%20de%20l'Ordre%20\(fe1c44dcd616f054cb278d12e8059f4f\).pdf](http://www.bba.org.lb/admin/document/Le%20R%C3%A8glement%20Int%C3%A9rieur%20de%20l'Ordre%20(fe1c44dcd616f054cb278d12e8059f4f).pdf)
- Lxii Code of Ethics of the Legal Profession, adopted by the Council of the Bar on February 8, 2002.
Available in French at:
[http://www.bba.org.lb/admin/document/R%C3%A8gles%20D%C3%A9ontologiques%20\(07a623f02b2e401867308774dda11cbd\).pdf](http://www.bba.org.lb/admin/document/R%C3%A8gles%20D%C3%A9ontologiques%20(07a623f02b2e401867308774dda11cbd).pdf)
- Lxiii Law Organizing the Profession of Lawyer – Article 87
- Lxiv Code of Ethics of the Legal Profession, Preamble, Rule 4.
- Lxv CCP, Article 429
- Lxvi CCP, Article 428
- Lxvii CCP, Article 432
- Lxviii A guide to civil legal aid in Lebanon for citizens and foreigners, publication published by the Project to strengthen the independence of the judiciary and citizen access to justice in Lebanon, implemented by the National Center for State Courts (NCSC)
- Lxix For civil cases: CCP, Article 433
- Lxx Development and Cooperation, Calls for proposals and Procurement notices, Support to Legal Aid in Lebanon. Available online at: <https://webgate.ec.europa.eu/europeaid/online-services/index.cfm?ADSSChck=1377781812577&do=publi.det.PUB&searchtype=AS&Pgm=7573876%2C7573877&debpub=&orderby=upd&orderbyad=Desc&nbPubliList=15&page=1&aoref=134610n>
- Lxxi Estimation based on an average of 600 cases per year
- Lxxii CLDH Report, Legal Assistance to vulnerable inmates in Lebanese prisons, 2012
- Lxxiii See Annex 3
- Lxxiv CCP, Article 437
- Lxxv CCP, Article 436



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Dora, Mar Youssef st, Bakhos
Bldg, 7th floor. Beirut, Lebanon
01.24.0023 | 01.24.0061



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