

Rule of Law Unit [2]

FAROUK EL-MOHRABY

**The Lebanese
Judiciary as Misused
and Misguided**

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INTRODUCTION

This report aims to examine the state of the judiciary in Lebanon, especially during the period after 2019, which was marked by significant events in the country. These include cases of financial corruption; financial institutions going bankrupt and depositors' funds vanishing; crimes of torture against protesters during the October 17 uprising; the assassination of political activist Lokman Slim; restrictions on freedom of speech; and summonses against journalists. However, the Beirut port explosion stands out as one of the most serious blows to the country in this period.

The judiciary in Lebanon is undoubtedly facing one of its worst periods. The deterioration is evident in the disintegration of public administration; the erosion of wages; the absence of numerous judges, lawyers and other public administrators and law enforcement personnel; the crumbling of the courthouses; and shortages of electricity, water and even stationery, among other problems.

This report examines the failures of the justice system in Lebanon and the challenges it faces and envisions the potential for building an independent and capable judiciary.

The report deals with the crisis of the ordinary courts without addressing the problems that lie with the administrative courts. There are three reasons for this. Firstly, ordinary courts have a greater impact on people's daily lives. Secondly, most of the scandals unfortunately involve judicial misconduct committed in ordinary courts. Thirdly, the most important cases that have stimulated public opinion have been heard in ordinary courts.

The report analyzes the various aspects that affect the functioning of ordinary courts in Lebanon, starting with the law that governs its

functioning. The report then examines the current economic and political situation that is directly impacting the functioning of the judiciary. The report also discusses opportunities for reform.

In addition, the report addresses the crisis facing judges, court assistants and lawyers, recognizing that these three professions are the pillars of legal work in the courthouses.

I. AN OVERVIEW OF THE ORDINARY COURTS

The ordinary courts are governed by Decree Law No. 1501983/. This is an Ordinary Judicial Law, which regulates the functioning of the judiciary, such as court divisions, the formation of the Supreme Judicial Council, the judicial formations, the functioning of the Judicial Inspection Authority and the procedures for disciplining and dismissing judges.

Under with Article 12 of the Ordinary Judicial Law, ordinary courts are divided as follows:

Courts of First Instance

Courts of Appeal

The Court of Cassation

There are also special courts such as the Labor Arbitration Council, which are established under other laws.

Under Article 13 of the previously mentioned decree, Courts of First Instance are composed of chambers and divisions. Chamber judgments are issued by a president and two members from each chamber. Division judgments are issued by a single judge. The assignments are distributed between the chambers and the divisions by virtue of a decision issued by the Minister of Justice. This decision is made following a consultation with the Supreme Judicial Council, which in turn bases its approval on the proposal of the First President of the relevant Court of Appeal.

First Instance Chambers are only located in governorate [muhafaza] capitals, except for the Beqaa and Mount Lebanon governorates. To compensate for these exceptions, the First Schedule annexed to Decree No. 15083/, established chambers in Baalbek and Jdeidet al-Matn. The latter chamber hears civil and criminal cases referred to it

from the districts [qada'] of Jbeil, Keserwan and Matn. There is also an appeal chamber.

The single judges are located in the capitals of districts and governorates. A single judge, like the president of the First Instance Chamber, serves as the president of the judicial division of his court. According to Article 35 of Decree Law No. 15083/, a judicial division is a court, a chamber, a department, a public prosecutor's office or an investigative division, in addition to the registry assigned to each division¹.

The Court of Appeal consists of a president and two counselors, and its headquarters is usually located in the governorate capital. However, the aforementioned annex allowed for the establishment of appeal chambers in Baalbek and Jdeidet al-Matn².

The courthouses are divided as follows: eight courthouses in Mount Lebanon (including the Baabda and Jdeideh courthouses, where there are first instance chambers and a court of appeal); seven courthouses in North Lebanon (including Tripoli, where there are first instance chambers and a court of appeal); three courthouses in South Lebanon (including Saida, where there are first instance chambers and a court of appeal); five courthouses in Nabatieh (including the Nabatieh courthouses, where there are first instance chambers and a court of appeal), six courthouses in the Beqaa (including the Zahle and Baalbek courthouses, where there are first instance chambers and a court of appeal), and the Beirut courthouse³.

According to the 2007 Schedule, the number of judges working in the system is 768⁴, which is certainly an inaccurate figure, especially as some of the judges have retired or taken up other posts in the judicial

¹ Marwan Karkabi, *Civil Procedures in Lebanese Law*, Sader Publications, 2003, 115-16. Source in Arabic.

² Nizar Saghieh et al., *Study Papers on the Reforms of the Judiciary in Lebanon (13): Geographic and Functional Map of Judicial Institutions*, The Legal Agenda, 2017, 16. Source in Arabic.

³ Ibid, 15.

⁴ Ibid, 13.

system. In addition, there are the judges who resigned or applied for a sabbatical after 2019, which must also be taken into account. The Ministry of Justice has not published a report on these figures.

According to the same Schedule, the number of court assistants is around 1,100, which is also inaccurate as the Ministry of Justice has not published any documents confirming this figure⁵. Although this is considered a good ratio of assistants to judges, unfortunately, the courts are still not automated and the work is done exclusively on paper and by hand, which affects the smooth flow of work. From my experience as a lawyer, I can confirm that I sometimes have to wait for days to find a file whose documents I need to fill in or to conclude a legal transaction.

According to Articles 19 and 20 of the same decree (1501983/), each Court of Appeal has a First President, who presides over the First Chamber and ensures the proper functioning of the divisions under his authority and the efficient conduct of the work. The First President is authorized to delegate one of his associate judges to assume the duties of the judges of the Court of First Instance, the Court of Appeal, the Public Prosecutor's Office or the investigating judges, if any of them is absent for any reason.

According to Article 24 of the same decree, the Court of Cassation is the Supreme Court and has its seat in Beirut. According to Article 26, the Court of Cassation is headed by a First President, who is appointed by decree of the Council of Ministers on the proposal of the Minister of Justice. The First President of the Court of Cassation is also ex officio President of the Supreme Judicial Council, the Disciplinary Council of Judges, the Supreme Council for the Trial of Presidents and Ministers, the Justice Council and the Plenary Assembly of the Court of Cassation⁶.

Having outlined the structure of the ordinary courts, it is important to categorize the types of cases, distinguishing between civil and criminal

⁵ Lina Fakhreddin, "Judicial Assistants on Strike: Courts Enter 'Coma'", *Al-Akhbar*, July 19, 2022, <https://al-akhbar.com/Politics/341468>. Source in Arabic.

⁶ M. Karkabi, *op. cit.*, 117-18.

cases. This distinction determines which court, civil or criminal, has jurisdiction over a case.

The nature of the offense, whether civil or criminal, dictates the court's jurisdiction. Civil offenses fall under the Code of Obligations and Contracts, while criminal offenses are governed by the Penal Code and other statutes prescribing criminal penalties. According to the general principle enshrined in Article 1 of the Penal Code, no punishment is imposed for an offense for which no law is provided. Therefore, any criminal offence must be provided for in Lebanese law.

A criminal offense differs from a civil offense legally. A civil offense is defined under Article 121 of the Code of Obligations and Contracts as follows: "An offense is an act that intentionally and unlawfully harms the interest of another, and a quasi-offense is an act that unlawfully but unintentionally harms the interest of another". As for criminal offenses, they are defined as acts that violate a special penal provision. This provision is narrowly interpreted, unlike civil cases.

The material element of a civil offense is the infliction of harm on a specific person. In criminal cases, however, an offense may be punishable without harm having been caused, as is sometimes the case with attempted offenses.

As far as the moral element of a civil offense is concerned, it is often based, as with criminal offenses, on the fault committed. However, civil law does not attach the same importance to the fault committed. In contrast, criminal law only punishes intentional faults, unlike civil law, which in some cases is limited to negligence⁷.

As far as the jurisdiction of the courts is concerned, we will leave it at that. We will also not examine the code of civil procedure, which we have discussed before, nor the code of criminal procedure. However, the functions of the Code of Criminal Procedure are defined in its first article as follows: the structuring of the criminal justice system and the determination of its jurisdiction; the organization of procedures

⁷ Fouad Rizk, *General Criminal Provisions*, Al Halabi Legal Publications, 2005, 30-31. Source in Arabic.

for investigation and court proceedings; and the regulation of various aspects of appeals against judgments. Additionally, it includes organizing the process of criminal fact-finding and the gathering of evidence in order to enforce criminal laws⁸.

II. MAJOR OBSERVATIONS

A- The Current Judicial System

● The ordinary law

As already mentioned, our study focuses on the ordinary court system, which is likely to be of greater interest to the public. This is not to diminish the importance of the administrative court system, but rather to recognize that its activities are limited to certain areas that may not be of concern to the public.

In accordance with the Lebanese Constitution and the principle of separation of powers, the judiciary is recognized as an independent authority. However, in practice and as indicated by the law on ordinary jurisdiction, the executive branch exercises considerable control over the judiciary. This control naturally affects the independence and effectiveness of the judicial system and is particularly evident in the appointment process of the Supreme Judicial Council, where eight of the ten members are appointed by the Council of Ministers.

The executive branch (i.e. the Council of Ministers) appoints the following persons: President of the Supreme Judicial Council (ex officio First President of the Court of Cassation); Public Prosecutor at the Court of Cassation (ex officio Vice-President of the Supreme Judicial Council); and President of the Judicial Inspection Authority (ex officio member of the Supreme Judicial Council).

The executive branch also appoints five judges to the Supreme Judicial Council: one from the Presidents of the Chambers of the Court of Cassation, two from the Presidents of the Chambers of the Court of

⁸ Law No. 328 dated 07/08/2001 in Afif Shamsiddin, *Codes of Criminal Procedures*, 2005, 7. Source in Arabic.

Appeal, one from the Presidents of the Chambers of the Courts of First Instance and one from the Presidents of the Courts or Departments of the Ministry of Justice⁹.

These appointments grant full control over the decisions of the Supreme Judicial Council, which is entrusted by law with numerous fundamental powers essential to the functioning of the judiciary. The most important of these powers include:

- Drafting individual or collective judicial transfers, secondments and assignments and submitting them to the Minister of Justice for approval.
- Formation of the Disciplinary Council of Judges.
- Examining the files of any judge and requesting the Judicial Inspection Authority to conduct the necessary investigations and take appropriate measures and decisions.
- Considering special pardon requests submitted by those sentenced to the death penalty or referred to the Supreme Judicial Council by the competent authorities.
- Appointing a committee composed of three Supreme Judicial Council members to consider all other special pardon requests.
- Expressing an opinion on draft laws and regulations related to the ordinary judiciary and proposing projects and provisions it deems relevant to the Minister of Justice¹⁰.

Given that these powers are vested in a Council that inevitably lacks independence - in a country characterized by a sectarian quota system and shameless power-sharing between political parties - the performance of the judiciary would undoubtedly be compromised. This lack of independence certainly affects the effectiveness of the judiciary, particularly when it comes to judicial formations and transfers.

⁹ Articles 1 and 2 of Law No. 150/1983.

¹⁰ Article 5 of Law No. 150/1983.

● **Judicial formations and transfers**

Judicial formations and transfers are procedures by which judges are transferred and their roles changed accordingly.

It is no secret to anyone that judicial formations are undoubtedly a process of political quota distribution par excellence. Judicial offices are distributed on a sectarian basis and given to the dominant political parties within those sects. Judicial formations create incentives for those who have ambitions within the judicial and political bodies, especially in view of the increasing practice of appointing judges to ministerial posts. Judicial formations also serve as an instrument of intimidation. Judges who do not respond to phone calls could be transferred to a post far from their place of residence or to an ineffectual post such as legal advisor to a court (with all due respect to all judicial posts).

The executive branch also controls the transfer of judges. First, through the appointment of the majority of the members of the Supreme Judicial Council and, second, through the role assigned to the Minister of Justice, in which appointments are made as follows, in accordance with Article 5 of the Ordinary Judicial Law:

- Formations only become effective after approval by the Minister of Justice.
- In the event of disagreement between the Minister of Justice and the Supreme Judicial Council, a joint meeting shall be held between them to examine the points disagreed on.
- If the disagreement persists, the Supreme Judicial Council shall re-examine the matter in order to decide on it and shall make its decision by a majority of seven members. This decision shall be final and binding.
- The judicial formations referred to in the preceding paragraphs shall be issued by decree on the proposal of the Minister of Justice.

Judicial formations have often been suspended by Ministers of Justice, who refused to sign the decree, even if it was issued by majority vote in the Supreme Judicial Council. We note that in every political crisis involving power-sharing judicial formations have been suspended.

As for the latest judicial appointments that did not occur in 2020, they clearly lacked the required transparency, given that the Minister of Justice was able to take the measures he needed to enforce these appointments. The formations were sectarian with obvious interference from political parties. This is despite the fact that some considered the 2020 frozen judicial formations to be better than the 2017 appointments¹¹, which came after a stalemate of around seven years. At the time, negotiations between the political parties, each of which placed their own cronies in posts that served their interests, lasted around six months. The team of former President Michel Aoun secured a significant share, which was negotiated by former Justice Minister Salim Jreissati¹².

Unfortunately, without reforming the mechanism of judicial formations and transfers the judiciary will remain a playground for the partisan quota system and infighting between political parties and sectarian leaders. Judicial formations and transfers must be independent of the executive branch and must be based on principles such as, equality, competence, productivity and proper conduct.

● Political interference in the judiciary

Political interference in the work of the Lebanese judiciary has undoubtedly become very blatant. This phenomenon has shamelessly prevailed since the end of the civil war and the takeover of political power by the warlords. And of course, we cannot overlook the influence of the Syrian occupation and its allies, who controlled all aspects of the country until 2005.

The resignation of a significant number of judges following the

¹¹ Nizar Saghieh, "Judicial Appointments: Preventing the Lebanese State's Disintegration into Fiefdoms", *The Legal Agenda*, June 1, 2022, <https://english.legal-agenda.com/judicial-appointments-preventing-the-lebanese-states-disintegration-into-fiefdoms/>.

¹² Pascale Boutros, "The Inside Story of Judicial Appointments: Allegiance to the Leader and Electoral Considerations", *Al-Modon*, October 2017 ,6, <https://tinyurl.com/5dcp9swd>. Source in Arabic.

issuance of the 1997 decree on judicial formations is clear evidence of the injustice done to judges due to nepotism and favoritism.

Further evidence of this interference is the statement by Minister Khaled Kabbani that the appointment of judges is the main avenue through which the executive branch interferes in the work of the judiciary. Also in 2005, the Judicial Inspection Authority published a circular in the newspapers calling on judges who negotiate with politicians over transfers to refrain from doing so¹³.

Looking back, we must not forget the appointment of Judge Nasri Lahoud in January 2002 as President of the Supreme Judicial Council during the tenure of his brother, former President Emile Lahoud.

It is also necessary to recall the infamous era, associated with the Syrian presence in Lebanon, of the former public prosecutor of the Court of Cassation, Adnan Addoum. The amendment of the Code of Criminal Procedure on April 20, 2001, is further proof of political interference in the judiciary. At that time, some politicians who had started to form a political core in opposition to the Syrian regime believed that this amendment was in favor of Adnan Addoum and that the new code allowed him to tighten his grip on all criminal investigations where his intervention was required. A number of these politicians challenged this law before the Constitutional Council, but the Council rejected the challenge¹⁴.

The post-2005 era, with the Rafik Hariri assassination case at its climax, was no better in terms of political interference in the judiciary. Moreover, the political party that had challenged the 2001 Code of Criminal Procedure before the Constitutional Council, claiming it violated civil liberties, failed to amend the Code after obtaining a parliamentary majority. Instead, it appointed Judge Said Mirza, who was aligned with its political interests, as the public prosecutor.

¹³ Maya Wahib Mansour and Carlos Yusif Daoud, *The Independence and Impartiality of the Judiciary in Lebanon*, Euro-Mediterranean Human Rights Network, Copenhagen, 2009, 44. Source in Arabic.

¹⁴ Republic of Lebanon, Constitutional Council, Decision No. 4/2001, <https://www.cc.gov.lb/ar/node/2586>. Source in Arabic.

Following the agreement between the Future Movement and the Free Patriotic Movement and the election of General Michel Aoun as President of the Republic, the political allies intensified their efforts to share influence, including within the judiciary. At that time, there were several disputes in the media because former Minister of Justice Salim Jreissati (affiliated with the Free Patriotic Movement) interfered in the work of the judiciary. These disagreements between the Supreme Judicial Council and the Minister of Justice deepened when Jreissati addressed the Council in an inappropriate manner¹⁵. His public communication with a judge on a media platform, in which he asked for special attention to a particular case, was a scandal that revealed the extent of political interference in the judiciary¹⁶.

Michel Aoun's term of office was perhaps the phase when the judiciary faced the most interference. This ranged from infringements on the Supreme Judicial Council and attacks on its president to preferential treatment of certain judges who violated the law, as well as other forms of manipulation. Some judges came to be known as the "Judges of the Covenant", referring to those aligned with Aoun, while others preferred to resign rather than remain in their posts¹⁷.

In connection with the interference of the executive branch in the role of judges, a circular was issued by the Minister of Justice, Henry Khoury, stating: "Judges must comply with the law, refrain from media appearances of any kind and refrain from making public statements in the media, on the Internet or on other platforms without obtaining

¹⁵ Radwan Mortada, "The Supreme Judicial Council to the Minister of Justice: You have Gone too Far", *Al-Akhbar*, March 22, 2018, <https://al-akhbar.com/Politics/246747>. Source in Arabic.

¹⁶ Rania Hamzeh, "A New Term for Intervening in the Rif Case: A 'Hot File' by Order of Minister of Justice", *The Legal Agenda*, May 17, 2017, <https://tinyurl.com/mskyvp89>. Source in Arabic.

¹⁷ Youssef Diab, "Aoun's Covenant Fractures Lebanese Judiciary and Turns into Conflicting Movements", *Asharq al-Awsat*, November 1, 2022, <https://tinyurl.com/3jeyjuta>. Source in Arabic.

prior permission from the competent authority”¹⁸. Another notice prohibited them from traveling or communicating with embassies, governmental or non-governmental organizations or associations to attend seminars or workshops in Lebanon or abroad without prior permission¹⁹. This was an attempt by the Minister of Justice to restrict the judges’ freedom of movement and require from them an obligation of discretion and revoke what the Judges’ Club was able to achieve. The members of the Judges’ Club were undoubtedly the intended targets of this measure, as will be shown later in this report.

Political interference in the judiciary has long been an ongoing issue, but the shameless bravado with which it is practiced was particularly evident in 2016 following the election of Michel Aoun as President of the Republic, and this trend continues to this day. This report highlights several cases that exemplify this blatant interference in the Lebanese judiciary.

B- The General State of the Judiciary

● The courthouses

The corruption that has accompanied infrastructure projects in Lebanon since the end of the civil war and the beginning of reconstruction became evident after the economic crisis in the country. Electricity has completely disappeared, and the streets and public administration offices have fallen into disrepair – especially the courthouses, which have become unusable.

The condition of the courthouses has been described as more than dismal. Some have reached a catastrophic state of disrepair, rendering them unusable, while others barely meet minimum standards (which still means poor condition). This variance in the condition of courthouses across regions arises from differences in

¹⁸ “Judges Prohibited from Media Appearance without Prior Permission”, *IMLebanon*, May 4, 2023, <https://www.imlebanon.org/2023/05/04/judges-media/>. Source in Arabic.

¹⁹ The second circular has not been published.

maintenance responsibilities. Some courthouses are maintained by the municipalities, while others have fallen into disrepair and are on the verge of collapse²⁰. Entering into these courthouses has become akin to an adventure due to frequent power and water outages. Judges and staff struggle to use the toilets due to lack of water and poor sanitary conditions. Cleanliness is practically non-existent, especially in Baabda, Saida, Nabatieh, Zahle and Baalbek. The elevators in the Beirut courthouse are notorious for their frequent breakdowns, so much so that the Beirut Bar Association had to foot the bill for repairs²¹. It is worth noting that the Beirut courthouse is so dilapidated that some compare its condition to that of the post-civil war: “crumbling walls, broken doors, dirty floors and piles of garbage”²².

As for the lighting of certain courthouses, Sheikha Hind Abdul Majid Majzoub Al-Thani has taken the initiative to install solar panels²³. This raises the question: What can one expect from a judicial system in which essential infrastructure improvements depend on charitable acts, while funds earmarked for such improvements are misappropriated without anyone being held accountable?

● The financial state of judges

According to the salary scale approved in 2018 by Law No. 792018/, judges’ salaries range between three and a half million and eight million Lebanese pounds, following an increase of three grades (with

²⁰ Hussein Ziad Mansour, “Courthouses in Lebanon Lacks ‘Resilience’”, *GrandLB*, December 26, 2023, <https://www.grandlb.com/politics/69473/>. Source in Arabic.

²¹ Youssef Diab, “Courthouses in Lebanon Lack Basic Safety and Hygiene,” *Asharq al-Awsat*, October 27, 2018, <https://tinyurl.com/3y2namtx>. Source in Arabic.

²² Fares Khachan, “Lebanon’s Misery Reflected in a Beirut ‘Dump’ Known as ‘The Courthouse’”, *Al-Hurra*, September 30, 2022, <https://tinyurl.com/mv7asvww>. Source in Arabic.

²³ “Sheikha Hind Majzoub Completes Initiative by Lighting Up Courthouses”, *Al-Liwaa*, October 25, 2023, <https://tinyurl.com/5b7v5xvh>. Source in Arabic.

each grade valued at 250,000 LBP for judges)²⁴. This translates to a salary range of \$2,500 to \$5,500, depending on the grade. Judges also receive income from the mutual fund, as determined by the fund's board²⁵, which includes medical, social, educational, cultural and housing assistance, as well as aid for exceptional emergencies. At that time, the financial and social situation of the judges was good.

However, after 2019, following the collapse of the national currency, judges' salaries fell so sharply that at some point they were hardly worth anything. The Judges Mutual Fund almost stopped providing educational grants and medical care, prompting the Lebanese state to apply its usual crisis strategy, which is nothing more than patchwork. For example, in July 2022, a circular from the Central Bank of Lebanon (BDL) instructed banks to pay judges' salaries at the exchange rate of eight thousand Lebanese pounds per dollar²⁶. The next day, newspapers and websites ran headlines asking: "Is this a pay rise or a bribe?"

In addition to this increase, an amount of money from the BDL was allocated to the Judges Mutual Fund, which provided judges with a monthly stipend of between \$800 and \$1,000. This agreement was made verbally between the Financial Prosecutor, Judge Ali Ibrahim, and former BDL (Banque du Liban) Governor Riad Salameh. However, when Wassim Mansouri took office as governor of BDL, concerns arose that the bank might stop the subsidy payments²⁷.

Moreover, the Financial Prosecutor imposed additional fees for filing

²⁴ Article 54 of Law No. 79/2018 in "Legislations in Force: The Budget", *Lebanese University, Legal Informatics Center*, <https://tinyurl.com/5f4jjrst>. Source in Arabic.

²⁵ Beneficial Services and Exemptions of the Fund, Article 8 of Decree-Law No. 52/1983 in "Legislations in Force: Regulation on Judges Mutual Fund", *Lebanese University, Legal Informatics Center*, <https://tinyurl.com/4b46exp8>. Source in Arabic.

²⁶ "Judges' Salary Increase. Is It the Deputies' Turn?", *Al-Liwaa*, July 13, 2022, <https://tinyurl.com/27axddz7>. Source in Arabic.

²⁷ Farah Mansour, "Fate of Judges in Mansouri's Hands: Monthly Grant or Death of Justice System", *Al-Modon*, September 16, 2023, <https://tinyurl.com/fcm4fzcy>. Source in Arabic.

complaints and cases—without any legal justification— in an effort to replenish the Judges Mutual Fund. This move led to a clash between the Financial Prosecution and the Beirut Bar Association over the right to profit from the parking lot adjacent to the Beirut courthouse and the Beirut Bar Association building (Beit al-Muhami). The Financial Public Prosecution succeeded in seizing control of the parking lot and began charging a 100,000 LBP parking fee²⁸. We must also acknowledge the financial grant provided by Iraqi judges to their Lebanese counterparts, which was sent by the Supreme Judicial Council of Iraq²⁹.

In addition to being heartbreaking, the situation confirms that the executive branch has successfully repressed the judiciary by controlling judges' livelihoods and futures, effectively taking control of their monthly incomes. Consequently, judges were forced to plead with the BDL Governor (a key figure responsible for the economic crisis) to raise their salaries and provide financial grants.

● The financial state of court assistants

Court assistants had barely begun to enjoy the salary increase from the 2018 rank and pay scale when the 2019 financial crisis drastically devalued their pay. Their salaries became worthless, just like those of the entire public sector. The assistants have expressed their disappointment towards the judges, who only focused on improving their own conditions without advocating for improvements for the court assistants, even though the judicial system cannot function without the work of the assistants³⁰.

To support the court assistants, a fee of 100,000 Lebanese pounds is

²⁸ “Bar Association Council Asks Lawyers Not to Pay When Entering Parking Lot Adjacent to Courthouse”, *Mahkama*, July 11, 2023, <https://tinyurl.com/yckyekzw>. Source in Arabic.

²⁹ Mohammed Ali, “Iraq Offers a Financial Grant to Judicial Council”, *Al-Araby al-Jadeed*, March 6, 2022, <https://tinyurl.com/3v7dbfdx>. Source in Arabic.

³⁰ Youssef Diab, “Salary Increase of Lebanese Judges has Sparked Protests Among Judicial Assistants”, *Asharq al-Awsat*, July 15, 2022, <https://tinyurl.com/4n49p3ph>. Source in Arabic.

now charged for each petition, complaint, or memorandum filed in any courthouse in Lebanon. This fee is meant to be distributed among the assistants, but of course it is implemented without any clear and transparent legal mechanism³¹.

All these cobbled-together and dubious solutions can guarantee neither the sustainability nor the transparency of the work of the judiciary. Undoubtedly, corruption, which is already rampant in the courts, is increasing daily as employees lack financial security, such as health insurance, educational benefits and a salary that guarantees a decent living. Consequently, most employees now rely on service of notice fees and on gratuities mostly from attorneys, or alternative work in the courthouses. Unfortunately, there seems to be no serious intention to find radical solutions within the courthouses.

● **Situation of lawyers**

The legal profession is undoubtedly one of the liberal professions most affected by the financial and economic collapse, given that the work of lawyers is closely linked to the regularity of operations in public administrations and courthouses. However, this regularity has been completely disrupted since the revolution of October 17, 2019. Added to this are the repeated strikes and closures due to the coronavirus pandemic.

The financial collapse had a devastating impact on the legal profession. Lawyers – like everyone else – lost their deposits in the banks. Clients, both natural and legal persons, also lost their deposits. As a result, their business and income declined, and they could no longer afford the fees for legal representation. Court rulings became increasingly unclear, particularly regarding the settlement of monetary debts—whether to be paid in cash or by banker’s checks—and the determination of an appropriate exchange rate. Work became a “conundrum”, with everyone acting according to their own interests. Consequently, hundreds of law firms closed, with reports indicating that around 300 firms shut

³¹ This amount is paid by all the lawyers, including the author of this report.

their doors—though these figures were not officially published by any professional association. This situation also prompted an exodus of hundreds of competent lawyers, most of whom relocated to the Gulf States.

It is important to bring attention to a worrying development within the Beirut Bar Association: the amendment to the code of ethics for lawyers, which clearly violates international human rights law. This amendment restricts lawyers' right to freedom of expression and violates their privacy on social media. It undermines the true essence of the legal profession amidst the corruption and daily human rights violations prevalent in the country.

Article 39³² of the amended Code prohibits lawyers from discussing important social issues without prior permission from the President of the Bar Association. Article 41³³ stipulates that lawyers must obtain prior permission from the President of the Bar Association, by any available means, to participate in a seminar or interview of a legal nature organized through the media, social media, websites or groups. The lawyer's request must include the date, the topic and the name of the platform. This requirement is similar to the declaration that must be submitted to the Ministry of the Interior in order to obtain a permit for a demonstration.

The summoning of lawyer Nizar Saghieh, Executive Director of the Legal Agenda, and other lawyers for questioning by the Bar Council can only be seen as an attempt to restrict freedoms. This action

³² Article 39 – as amended: A lawyer must refrain from using any form (visual, audiovisual and written communication) of media, advertising, or communication, including social media platforms, websites, and online networks, to discuss pending cases before the courts, whether they are handling the cases or other lawyers are involved. They are required to plead and defend cases before the competent courts, while reserving the right to respond as prescribed by law after obtaining permission from the president of the Bar. Exceptions to this rule apply to major societal cases, also requiring permission from the president of the Bar.

³³ Article 41(1) – as amended: A lawyer must obtain prior permission from the president of the Bar through any available means, to participate in a legal seminar or interview organized through the media, social media, websites, or groups, provided that the lawyers' request includes date, the topic and the name of the platform.

followed Saghieh's increased criticism of the amendment, which he saw as a violation of the fundamental right to freedom of expression and an attempt to silence activist lawyers who cause distress to the political establishment and the system as a whole. Saghieh had even challenged the amendment before the Civil Appeals Court in Beirut³⁴. However, the court upheld the bar association's decision to amend its bylaws, basing its reasoning on an erroneous interpretation of the law and international conventions³⁵.

Trainee lawyers, especially those who passed the bar exams in 2018 and onwards, which entitle them to be admitted to the bar, also face major challenges in their profession. Many have unfortunately lacked the necessary opportunities to gain the required experience due to the successive interruptions in court operations and public departments. The complete closures caused by the coronavirus pandemic and the general decline in both the level and quality of judicial work have also contributed to their lack of opportunity. These factors have had a negative impact on the professional, psychological, and financial well-being of trainee lawyers. For example, when applying for admission to the bar, trainee lawyers had to prove that they had participated in at least 150 court hearings. In the past, this was relatively easy for most trainee lawyers, but today it has become almost impossible. Therefore, the bar association has had to replace the required number of hearings with training lectures or moot court hearings.

C- Successive Interruptions

● Judges repeatedly going on strike

On July 20, 2017, judges began a two-month walkout to protest the passage of a bill by Parliament that would empower the government

³⁴ Farouk El-Moghraby, "The Political Powers Strike Back", *Arab NGO Network for Development*, May 08, 2023, <https://www.annd.org/en/publications/details/the-political-powers-strike-back>.

³⁵ "Lebanon: Court Decision is a Blow to Freedom of Expression and Independence of Lawyers", *MENA Rights Group*, May 12, 2023, <https://menarights.org/en/articles/lebanon-court-decision-blow-freedom-expression-and-independence-lawyers>.

to re-evaluate the benefits and resources of the Judges Mutual Fund and set the salaries of first and second level employees higher than those of judges. The intention of the bill was to diminish the social gains of judges and marginalize the judiciary by exercising control over the Mutual Fund, which had been established after extensive efforts by a large number of judges³⁶.

On June 10, 2019, the judges initiated another work stoppage, which lasted for approximately two months too. The reason for this walkout was their opposition to the 2019 draft budget, which provided for a reduction in health and education benefits for judges. During this time, the Judges' Club was at the forefront of the strike, initiating talks on judicial autonomy for the first time. The judges expressed their dissatisfaction with the absence of the Supreme Judicial Council from the parliamentary deliberations and emphasized that, according to Article 5 of the Ordinary Judicial Law, consultations with the Supreme Judicial Council are mandatory before the adoption of laws affecting judges³⁷.

In mid-August 2022, the Lebanese judiciary went on its longest strike to date, which lasted around eight months. The aim of the strike was to improve the financial and social conditions of judges, as salaries had dropped significantly, and medical and educational benefits provided by the Judges Mutual Fund had been virtually eliminated. These hardships were borne by the litigants in general, especially those who were in detention³⁸.

Certainly, we cannot overlook the constant threat of strike action by judges, a legitimate concern given their worsening financial situation and the failure of the Ministry of Finance to provide the agreed-upon

³⁶ Nizar Saghieh, "Dismissing Lebanese Judges: Purging Judiciary of Its Best Personnel", *The Legal Agenda*, October 4, 2017, <https://tinyurl.com/237dn8w4>.

³⁷ Jana Dhaybi, "Judges Suspend Work and Restore Dignity to Humiliated Judiciary", *Al-Modon*, June 2, 2019, <https://tinyurl.com/2aabhypw>. Source in Arabic.

³⁸ "Lebanon's Longest Judicial Strike Leaves Critical Cases and Detainee Files Hanging in the Balance," *France 24*, December 9, 2022, <https://tinyurl.com/57kj5cyn>. Source in Arabic.

monthly allowances³⁹. This situation results in constant disruptions for litigants.

In light of all this, it is obvious that the judiciary has lacked continuity since 2017 – i.e. for around seven years. During this period the conditions in the courthouses have been irregular and disorganized, with citizens and detainees suffering the consequences.

● Court assistants' strikes

In 2017, court assistants joined the civil servants' strike to advocate for the implementation of the grade and salary scale. This temporary work stoppage only served as a warning⁴⁰. In 2019, the court assistants stopped work to protest against budgetary problems, in particular the interruption of the cooperative fund for court assistants. This strike lasted around two weeks⁴¹. In 2021, court assistants stopped work for several days to highlight their worsening financial situation and the rising cost of fuel, because their salaries were no longer sufficient to cover travel costs⁴². Throughout September 2021, court assistants suspended their work for the same reasons⁴³. This trend continued in 2022⁴⁴, 2023⁴⁵ and again in 2024, as financial and social concerns persisted.

³⁹ Tony Karam, "Judges Suspend Work: Responses to Patchwork Solutions Vary", *Nida al-Watan*, September 20, 2023, <https://tinyurl.com/3ww5nb4h>. Source in Arabic.

⁴⁰ "Court Assistants: Work Suspension on Thursday Except for Reviews Related to Detainees", *IMLebanon*, April 5, 2017, <https://www.imlebanon.org/2017/04/05/judges-assistants-statement/>. Source in Arabic.

⁴¹ "Court Assistants Continue their Work Stoppage!", *IMLebanon*, May 22, 2019, <https://www.imlebanon.org/2019/05/22/justice-helpers-strike/>. Source in Arabic.

⁴² "Court Assistants Suspend Work on 22, 23, and 24 June", *IMLebanon*, June 21, 2021, <https://www.imlebanon.org/2021/06/21/judicial-assistants-2/>. Source in Arabic.

⁴³ "Court Assistants Suspend their Work Throughout September", *Sawt al-Farah*, September 6, 2021, <https://www.sawtalfarah.com/?p=107250>. Source in Arabic.

⁴⁴ "Court Assistants: Suspension of Hearings with Some Exceptions", *Sawt al-Farah*, June 6, 2022, <https://www.sawtalfarah.com/?p=172911>. Source in Arabic.

⁴⁵ "Court Assistants Suspend their Work on Thursday and Friday Except for Deadlines and Detainees", *Al-Jadeed*, June 9, 2021, <https://tinyurl.com/3twbh2m2>. Source in Arabic.

The work interruptions of court assistants were short due to several reasons. These include lack of good organization — compared to the work of the coordinating committee of the public administration — the ability of assistants to supplement their income through additional services or gratuities while on duty, as well as political interference that convinces some employees to return to work.

● **Lawyers' strikes**

On July 27, 2017, the Beirut Bar Association announced a strike that lasted approximately two months. This action was in protest of the measures that placed the burden of funding the grade and salary scale on the self-employed, following plans to impose a tax on banking interest and redefine that interest as taxable income⁴⁶.

Due to concerns over the state of the judiciary and numerous assaults on lawyers, former Beirut Bar Association President Melhem Khalaf launched the “Great Lawyers’ Uprising” on June 9, 2021. He gave the legislative branch a twenty-day ultimatum to pass legislation ensuring the independence of the judiciary⁴⁷. However, this did not happen, and the strike, which brought only minimal gains, was called off around five months later. The only tangible result was the issuance of a joint statement following a meeting between members of the Supreme Judicial Council and a delegation from the Beirut Bar Association. In this statement, it was agreed to set up a committee composed of representatives from the Judicial Council and the Beirut and Tripoli bar associations to address common concerns. The statement was accompanied by the issuance of Circular No. 142/S/2021 by the Cassation Public Prosecutor Judge Ghassan Oueidat to confirm Circular No. 31/S issued in 1992 and to determine the procedures

⁴⁶ Laure Ayoub, “Judicial Vacation is Over and Beirut Lawyers Continue their Strike: Courts Have Postponed Hearings and Court Registries Are Functioning Normally”, *The Legal Agenda*, September 20, 2017, <https://tinyurl.com/yck69uu9>. Source in Arabic.

⁴⁷ “Khalaf Announces Great Lawyers’ Uprising”, *Annahar*, June 9, 2021, <https://tinyurl.com/2ty3h8xu>. Source in Arabic.

for prosecuting lawyers and designate the competent authority for investigating them⁴⁸.

Despite the importance of the recent strike and the validity of the demands, the legislature has unfortunately ignored them. The Supreme Judicial Council has not taken a supportive stance either. On the contrary, it has taken advantage of the lawyers' discontent. The ongoing strikes by court assistants, judges, and civil service employees have forced lawyers to wait for one strike to end before they can resume their work, only to be interrupted by a new strike.

D- Major Cases Highlighting Judiciary Failures

● The torture files

Since the beginning of October 17, 2019, the repression has been accompanied by instances of torture and ill-treatment during arrests, transport and occasionally interrogations. Activists in Tripoli and Beirut became victims of enforced disappearance and torture⁴⁹. Violence was employed as a means to quash the revolution, with women, minors, journalists and media workers being among the victims. Notably civilians affiliated with political parties have been implicated in the violence against protesters⁵⁰, but the judiciary has failed to hold any perpetrators accountable, especially in cases of torture.

On December 18, 2019, the Lawyers' Committee for the Defense of Protesters, under the instruction of the president of the Beirut Bar Association, filed fifteen complaints on behalf of seventeen plaintiffs with the Public Prosecutor of the Court of Cassation. These complaints were related to crimes of torture under Law No. 652017/

⁴⁸ "Beirut Bar Association Finally Breaks Its Strike", *Nida al-Watan*, September 24, 2021, <https://tinyurl.com/2r7u78mk>. Source in Arabic.

⁴⁹ Laure Ayoub, "Torture of Young Man Following Arrest During Sit-in on International Woman's Day", *The Legal Agenda*, March 12, 2024, <https://tinyurl.com/2s3swf-cy>. Source in Arabic.

⁵⁰ Nour Haidar, "A Popular Uprising Met with Violence and Torture: Crimes Against Protesters During Lebanon's Uprising", *The Legal Agenda*, February 18, 2021, <https://tinyurl.com/3fnhsp36>.

enforced disappearance under Law No. 1052018/, and violation of civil rights of protesters under Article 329 of the Criminal Code. The Cassation Prosecutor's Office referred the complaints to the Military Prosecutor, deeming it the competent authority. Subsequently, the Military Prosecutor's Office transferred these complaints to the security and military authorities – suspected of committing these acts of torture – for investigation. This action blatantly violated Law No. 652017/. Eventually, the file was archived⁵¹ without holding anyone accountable.

The Military Court has been used to intimidate protesters, with military prosecutors arbitrarily and without evidence accusing them of aggressive behavior towards security forces, failure to disperse peacefully, or undermining the prestige of the army⁵². The Military Court also invoked several other articles of Law granting itself the jurisdiction to investigate and rule, given the power it has to intimidate civilians. The conviction of comedian Shaden Fakih by the Military Court is a stark example of this pattern⁵³.

During its visit to Lebanon in 2022, the United Nations Subcommittee on Prevention of Torture expressed disappointment at the lack of implementation of most of the recommendations issued after its initial visit to Lebanon twelve years prior. It also voiced regret at the minimal improvement in the conditions of individuals deprived of their freedom.

● **The August 8, 2020' protests**

Following the Beirut port blast on August 4, 2020, a protest ensued on

⁵¹ Farouk El-Moghraby, "How Did the Judiciary Address Complaints from Torture Victims During the Revolution?", statement at press conference, (Beirut Bar Association, Beirut, February 6, 2020) <https://tinyurl.com/e8wfuup5>. Source in Arabic.

⁵² Laure Ayoub, "Protestors Against Military Public Prosecution: Political Allegations Suppress Opposition", April 22, 2021, <https://tinyurl.com/ydkt2prw>. Source in Arabic.

⁵³ "Lebanon", *Amnesty International*, 2024, <https://www.amnesty.org/en/location/middle-east-and-north-africa/lebanon/report-lebanon/>.

August 8 of the same year, urging for an investigation into the incident. What was particularly concerning was the disproportionate and excessive force employed by security forces to disperse the protesters, leading to numerous severe and permanent injuries, with hundreds of individuals affected⁵⁴. Amnesty International observed that security forces allegedly misused French equipment and weapons, which failed to adhere to the principles of necessity and proportionality and should not have been utilized by law enforcement officials⁵⁵. Despite victims filing complaints, to date, no one has been held accountable for these actions, and the matter remains under investigation.

● The Beirut Port blast

The case of the Beirut port explosion is an example of the widespread practice of evading accountability through political and judicial immunity. It also illustrates the abuse of administrative powers for prosecution and collusion between defendants and judges. Investigations conducted by the Judicial Council were repeatedly interrupted, the most egregious case being when a member of the Supreme Judicial Council unlawfully intervened to prevent the Judicial Council investigator, Judge Bitar, from continuing his work. At the time, however, the case was put back on track during subsequent judicial reviews⁵⁶.

Then again, after over forty dismissal claims, counterclaims, and transfer claims filed against him, Judge Bitar was suspended from his duties for a year. Later, Judge Bitar adopted a “necessity-driven legal interpretation” and resumed the investigations. This move was

⁵⁴ “Lebanon: Lethal Force Used Against Protesters”, *Human Rights Watch*, August 26, 2020, <https://www.hrw.org/news/2020/08/26/lebanon-lethal-force-used-against-protesters>.

⁵⁵ “Lebanon: No Accountability for Security Forces’ Crackdown on Protesters since 2019 – Report,” *Amnesty International*, March 14, 2023, <https://www.amnesty.org/en/latest/news/2023/03/lebanon-no-accountability-for-security-forces-crackdown-on-protesters-since-2019-report/>.

⁵⁶ Nader Fawz, “Bitar Returns to ‘Port’. Three Knights Sing Bella Ciao”, *Al-Modon*, December 7, 2021, <https://tinyurl.com/ya7z7783>. Source in Arabic.

met with opposition from the Cassation Public Prosecutor, Judge Ghassan Oueidat, who rejected these decisions entirely “since Bitar had been recused from the case”, especially after Judge Bitar filed charges against him. Oueidat then threatened to issue a summons against Judge Bitar and released the detainees without any legal justification⁵⁷. This absurd situation has resulted in the investigator facing potential prosecution whereas the suspects were released from prison.

The violations did not stop there. The Attorney General of Cassation, Judge Sabouh Sleiman suspended the arrest warrant issued in absentia against former minister Youssef Fenianos⁵⁸, rendering the judiciary the primary entity responsible for obstructing the port blast case.

● The Lokman Slim file

Following a defamation and hate campaign against political activist and thinker Lokman Slim, who was accused of being a traitor and an Israeli agent, posters reading “Glory to the Silencer” were put up on the walls outside his residence and the UMAM D&R center – founded by the late Lokman Slim⁵⁹ – indicating a death threat⁶⁰. This threat was carried out on February 3, 2021, when Slim was assassinated in Addoussiyeh in southern Lebanon. To this day, the murderer has not been identified.

Following this, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the independence of

⁵⁷ Laure Ayoub. “Oueidat’s Revolt Re-victimizes Those Killed on August 4”, *The Legal Agenda*, January 27, 2023, <https://tinyurl.com/yh3b863x>. Source in Arabic.

⁵⁸ Farah Mansour, “Fenianos and Khalil’s Arrest Warrants Annulled: Port Blast Case Liquidated”, *Al-Modon*, January 17, 2024, <https://tinyurl.com/3snpbdfn>. Source in Arabic.

⁵⁹ Karim Safieddine, “The Online Hate Network around Lokman Slim: One Year Later”, *SKeyes*, February 10, 2022, <https://www.skeyesmedia.org/en/News/News/10-02-2022/9866&types=2>.

⁶⁰ Samer Frangieh, “Glory to the Silencer”, *Megaphone*, February 4, 2021, <https://tinyurl.com/47b8swpv>. Source in Arabic.

judges and lawyers, the Special Rapporteur on freedom of opinion and expression, and the Special Rapporteur on human rights defenders issued a statement expressing their concern over the slow progress of investigations and urging the Lebanese authorities to ensure the perpetrators are punished. They also referred to the Minnesota Protocol⁶¹ on the Investigation of Potentially Unlawful Death, noting that this protocol applies to non-state groups and militias in areas under their control⁶².

Based on the above, the assassination of activist Lokman Slim is undoubtedly a political assassination par excellence, caused by the failure of the state to fulfill its duties and the historical pattern of impunity for such crimes throughout Lebanese history. Unfortunately, this crime remains stalled in the hands of the investigating judge, and no suspect has been arrested yet.

● **Failure to protect civil liberties**

The task of the judiciary is to protect civil liberties, including – and most importantly – freedom of expression. Yet, statistically, civil liberties have declined in recent years, and Lebanon is increasingly resembling authoritarian and police states. According to the SKeyes Center reports, there were more than 801 documented violations of media and cultural freedoms in Lebanon between 2016 and 2022.

The violations are varied, including assassinations, armed attacks on properties belonging to media outlets, assaults on journalists and activists by both official and unofficial entities, and the interrogation of journalists and activists. Additional violations include threats and

⁶¹ “The Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016)”, *United Nations Human Rights Office of the High Commissioner*, (New York and Geneva, 2017), <https://www.ohchr.org/sites/default/files/Documents/Publications/MinnesotaProtocol.pdf>.

⁶² “Lebanon: UN Experts Concerned at Slow Progress in Investigation and Continued Impunity for Killing of Prominent Intellectual Lokman Slim”, *United Nations Human Rights Office of the High Commissioner*, February 2, 2023, <https://www.ohchr.org/en/press-releases/2023/02/lebanon-un-experts-concerned-slow-progress-investigation-and-continued>.

harassment, legal proceedings targeting freedom of expression, both official and unofficial censorship of cultural works and activities, blocking of online content, and prison sentences against journalists. Courts without proper jurisdiction, such as the military court, have issued judgments against journalists. Furthermore, there have been arrests and detentions of journalists, activists and citizens, along with the use of excessive force and unjustified violence against protesters, photographers, journalists and reporters. The trial of dozens of protesters and activists before the military court also illustrates these widespread abuses.

The frequency of summonses against journalists, activists and citizens by the Cassation Public Prosecution and various security authorities has increased. These authorities include the Cybercrime and Intellectual Property Bureau, State Security, the Criminal Investigations Division, and even the Lebanese General Security and the Information Department. Most of the summonses were based on complaints of “defamation, libel and slander” against politicians and security agencies. These complaints relied on penal provisions related to defamation and slander found in the Lebanese Penal Code, the Code of Military Justice and the Publications Law.

Lebanon’s position in the World Press Freedom Index, which is published by Reporters Without Borders, has deteriorated significantly. In 2016, Lebanon was ranked 98th, but by 2022 it had fallen to 130th out of 180 countries, a drop of 32 places⁶³.

The crime of defamation is used as a tool to silence journalists, activists and critics of corruption by intimidating and instilling fear⁶⁴. Despite numerous international recommendations, including those from the UN Human Rights Committee, following a review of Lebanon in its report on the International Covenant on Civil and Political Rights

⁶³ Widad Jarbouh, “The Covenant That Bullies Freedoms”, *SKeyes*, November 1, 2022, https://www.skeyesmedia.org/documents/bo_filemanager/Aoun-Presidency-Violations-20221101.pdf. Source in Arabic.

⁶⁴ “Lebanon: Defamation Laws Used to Silence Critics: Thousands Investigated for Defamation after 2015 Protests”, *Human Rights Watch*, November 15, 2019, <https://www.hrw.org/news/2019/11/15/lebanon-defamation-laws-used-silence-critics>.

(ICCPR) in 2018⁶⁵, the Lebanese State has refrained from abolishing defamation penalties from the Penal Code.

According to Human Rights Watch, journalists and activists who criticize the ruling elite face threats from private entities, with authorities either unwilling or unable to protect them. They also face direct threats from governmental authorities⁶⁶. Human Rights Watch has also emphasized that freedom of expression in Lebanon is under attack, as several journalists are being threatened or prosecuted for defamation, with the most egregious case being the assassination of activist and thinker Lokman Slim⁶⁷.

Violations of the right to freedom of expression and repression of journalists continue unabated, characterized by systematic summonses directed against members of the press. For example, Judge Ghassan Oueidat prosecuted journalist Jean Kassir and unlawfully forwarded his file to the State Security Agency for investigation in order to intimidate him, despite the agency's notoriety for repeated human rights violations⁶⁸. Similarly, journalist Lara Bitar was summoned before the Cybercrime and Intellectual Property Bureau after the Lebanese Forces Party filed a complaint against an article published by The Public Source website⁶⁹. In addition, the media Daraj was threatened with legal action by the banker Marwan Kheireddine, who is being investigated by the French judiciary for financial corruption offenses⁷⁰.

⁶⁵ "International Covenant on Civil and Political Rights, Concluding Observations on the Third Periodic Report of Lebanon," *United Nations, Human Rights Committee*, May 9, 2018.

⁶⁶ "Lebanon: Events of 2021", *Human Rights Watch*, 2024, <https://www.hrw.org/world-report/2022/country-chapters/lebanon>.

⁶⁷ Aya Majzoub, "Freedom of Speech in Lebanon Is Under Attack", *Human Rights Watch*, May 4, 2021, <https://www.hrw.org/news/2021/05/04/freedom-speech-lebanon-under-attack>.

⁶⁸ "State Security' Summons 'Megaphone' Because of an Article Discussing Oueidat", *Al-Modon*, March 31, 2023, <https://tinyurl.com/2fed8ya9>. Source in Arabic.

⁶⁹ Farouk El-Moghraby, "The Political Powers Strike Back", *op. cit.*

⁷⁰ Hala Nouhad Nasseridine, "Warning Notice Issued to Me by Marwan Kheireddine Through Public Notary", *Daraj*, October 3, 2021, <https://daraj.media/en/lebanon-head-of-the-gang-marwan-kheireddine-and-his-offshore-companies/>. Source in Arabic.

Recently, journalist Riad Tawk was also summoned for questioning after he uncovered suspicions of corruption against Attorney General of Cassation, Judge Sabouh Sleiman⁷¹.

Public Prosecutors contribute to this repression by failing to enforce the Publications Law and instead refer cases to the Cybercrime Bureau or other security agencies such as State Security. These agencies can arrest journalists and activists and pressure them to remove publications and sign undertakings. This practice violates Articles 29 and 30 of Legislative Decree No. 104/1977/, which stipulate that “if the case requires a judicial investigation, the investigating judge must conduct it”.

Regrettably, the judiciary, which has the task of protecting civil liberties, is complicit in suppressing them. It does so by attempting to silence dissenting voices through summonses and court rulings, or by failing to bring attackers to justice, whether they are members of the security agencies or party-affiliated groups.

E- Awaited Reforms

● The Judges’ Club

The Judges’ Club emerged in 2017 from WhatsApp groups of judges who believed that the judiciary was in danger because of what it represents. Later, in 2018, the club went public and received recognition and approval from the Ministry of the Interior and local municipalities. Despite resistance from the Supreme Judicial Council and political entities, it was officially registered as a non-profit association on January 29, 2019, under decree No. 138. This was an important step towards restoring the freedom of judges to form associations. It also ended the exclusive representation of judges by the Supreme Judicial Council, eliminated the obligation of discretion, and redefined the

⁷¹ “Criminal Investigation Department Summons Journalist Riad Tawk for Interrogation Following Video”, SKeyes, January 24, 2024, <https://www.skeyesmedia.org/ar/News/News/11310/2024-01-24>. Source in Arabic.

role of judges not only as a profession but as a position of authority⁷². Among the achievements of this club is the revival of the idea that the judiciary is an authority and that the people are that source of authority. The club has called for the independence of the judiciary and the recovery of embezzled funds and has restored confidence and hope in the judiciary⁷³.

The club has on several occasions condemned political interference in the role of the judiciary. In 2019, it called on the Supreme Judicial Council to reject political interference in the judiciary and prevent political interference in cases that serve narrow political interests⁷⁴.

In a statement issued on January 13, 2022, the Judges' Club took a sharper tone in addressing the political class, accusing it of unhesitatingly interfering in the judiciary's functioning to prevent it from fulfilling its role and exposed its "vices". The statement further accused the political establishment of employing its agents within the judiciary to suppress any judge who dared to cross the red lines it had established⁷⁵.

The club's stance towards the political class, particularly the Minister of Justice, was met with disapproval. In response, the Minister decided to refer all members of the club to the Judicial Inspectorate after it made public statements on issues related to the judiciary, which were published in the media and on social media platforms⁷⁶.

Nevertheless, this example within the judiciary represents a positive

⁷² Nizar Saghie, "Key Human Rights Movements in 2018: Lebanon Judges' Club Steps into Reality", *The Legal Agenda*, May 7, 2019, <https://tinyurl.com/4rfsyjrt>. Source in Arabic.

⁷³ Fadi Ibrahim, "Key Milestones of Lebanese Judges' Club: What Its First Administrative Board Accomplished", *The Legal Agenda*, July 31, 2021, <https://tinyurl.com/4h59c54r>. Source in Arabic.

⁷⁴ "Lebanese Judges' Club: Supreme Judicial Council Must Denounce Political Interference", *Elnashra*, August 9, 2019, <https://tinyurl.com/2na4b7rh>. Source in Arabic.

⁷⁵ "Judges' Club to Political Class: Stop Interfering!", *Lebanon Debate*, January 13, 2022, <https://www.lebanondebate.com/news/548195>. Source in Arabic.

⁷⁶ "Minister of Justice Brings Judges' Club Before Judicial Inspection Authority", *Lebanon 24*, October 5, 2023, <https://tinyurl.com/34d4jz3d>. Source in Arabic.

step towards judicial reforms, helping to empower the judiciary to fulfill its role effectively.

● **The law on the independence of the judiciary**

The bill on the “Independence and Transparency of the Judiciary” represents significant progress in the reform process at all levels. Prepared, promoted, and explained by the Legal Agenda, which continues to exert pressure for its adoption, the proposal was presented to Parliament by Representative Paula Yacoubian in 2018. If adopted in its current form, the proposal would mark a substantial advancement in judicial reform. The establishment of an independent judiciary would have a significant positive impact and would promote human rights in all political, civil, economic and social spheres. It would also improve accountability and strengthen the principle of equality before the law.

According to the Legal Agenda, the following are the major proposals included in the bill of “Civil Coalition for Judiciary Independence and Transparency”:

1- Strengthening judicial independence and transparency

The proposal contains several provisions aimed at strengthening the independence and transparency of the main judicial bodies: the Supreme Judicial Council, the Judicial Inspection Authority and the Institute for Judicial Studies. These reforms concern the composition of the Supreme Judicial Council, the establishment of an independent budget and the strengthening of its powers in formations and transfers of judges. The proposal emphasizes measures to ensure the internal and external transparency of these institutions.

2- Strengthening the guarantees of judicial independence

The bill provides guarantees and inherent rights for judges to protect them from external and internal interference. Key provisions include ensuring that appointments are made on the basis of competence and without discrimination, enshrining the principle that judges can only be transferred with their consent, and safeguarding equality among judges. It also allows judges to participate in court administration

through the establishment of general assemblies, recognizes their freedom of expression, assembly and association, and allows judges to challenge decisions affecting their careers.

3- Strengthening, preserving and ensuring the proper distribution of judicial capacities

The most important elements of this include holding annual entrance examinations for admission to the Institute of Judicial Studies and organizing continuous training for judges and court assistants. In addition, judges are required to obtain a license to exercise another professional activity or to be appointed to another judicial or non-judicial post, but only after receiving a positive evaluation of their performance.

4- Ensuring the rights of litigants

This includes guaranteeing the proper functioning of the judiciary and accountability for judicial violations and enabling the filing of complaints. The proposal outlines mechanisms for evaluating judges and strengthens the role of the Judicial Inspection Authority in receiving and addressing complaints. This is primarily achieved through the establishment of a bureau dedicated to receiving and assisting citizens. Additionally, the proposal includes provisions to ensure transparency.

5- Reconciling the hierarchical organization of the public prosecution with the independence of judges

This involves several key measures. A joint body was created to draw up general instructions (criminal policy), comprising both the cassation prosecutor and the appeal prosecutors. According to this policy, the special instructions shall be lawful, in writing and justified. They shall be addressed to the relevant public prosecutor through their superior to ensure legality, and a copy shall be kept in the corresponding file⁷⁷.

However, Parliament's Administration and Justice Committee

⁷⁷ "Agenda Publishes Civil Coalition's Proposal on Independence and Transparency of Judiciary", *The Legal Agenda*, July 27, 2018, <https://tinyurl.com/573ucfj>. Source in Arabic.

distorted the content of the proposal by watering it down and undermining its major reforms. Specifically, they sought to prevent placing the formation of the Supreme Judicial Council outside the control of the executive branch. They also failed to ensure the integrity of judicial formations and refused to recognize built-in guarantees for judges⁷⁸.

The Minister of Justice also tried to dilute the law of its major reforms, attempting to preserve some powers for himself and maintain the executive branch's control over the judiciary⁷⁹.

The independence of the judiciary no doubt worries the political establishment, which is trying to either block the amended bill or pass a watered-down version that strips it of its intended reforms. We are dealing with a facade of reform, not real change. Nevertheless, the nation's only hope lies in upholding the rule of law, which cannot be achieved without an independent and transparent judiciary.

⁷⁸ "Independence of the Judiciary Coalition: The Administration and Justice Committee's Bill Fails to Achieve Judicial Independence", *The Legal Agenda*, January 18, 2022, <https://tinyurl.com/hvuktpph>.

⁷⁹ "Ministry of Justice's Observations on Judicial Independence: Explicit Political Dominance and Hierarchy", *The Legal Agenda*: December 23, 2022, <https://tinyurl.com/ctxme8sc>. Source in Arabic.