



**THE ARAB CENTER FOR THE DEVELOPMENT OF THE RULE OF LAW
AND INTEGRITY**

**PROJECT TITLE: STRENGTHENING THE RULE OF LAW AND INTEGRITY IN THE
ARAB WORLD**

**REPORT ON THE STATUS OF THE JUDICIARY
ANNOTATED OUTLINE**

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I. INTRODUCTORY CHAPTER

Written by:	ACRLI
Page number:	2 to 3 pages
Draft by:	

- 1) General objectives of the project
- 2) Objective of the report
- 3) Explanation of methodology

Note: The principles analyzed in this report are organized under four broad categories: independence, integrity, competence and efficiency. These categories and the affiliated principles are not intended to be a full, exhaustive list of the elements that could be used to assess all dimensions of the state of the Judiciary in a particular country. Rather, they reflect fundamental attributes of a sound and healthy Judicial sector, and were developed through several years of research and consultations with scholars and practitioners around the world. Similarly, the approach adopted for this report does not preclude other approaches to assessing the state of the Judiciary, but represents an attempt to create a framework that could be used as a basis for ongoing monitoring.

II. CHAPTER ONE: CONTEXTUAL BACKGROUND

Written by:	Lead author who may request background papers/ specific sections from co-authors /contributors
Page number:	5 pages
Draft by:	TBD

- 1) Description of the institution being analyzed – general overview, key features and attributes, historical development, national role, etc.
- 2) Relevant political and socioeconomic context.
- 3) Overview of reform issue – is the institution a target of debate and policy reforms? How do different stakeholders view the reform of this institution?

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III. CHAPTER TWO: ANALYSIS OF THE PRINCIPLES

Written by: Lead author with the collaboration of the co-authors
Background papers may also be requested from contributors

Page number: 30 pages

Draft by: TBD

For each principle, the author will attempt to incorporate some of the following elements, as relevant to the assessment of the level of compliance with the principle:

- Review of the applicable laws, decrees, rules, procedures, etc.
- Review of the application of the relevant laws, decrees, rules, procedures, etc.
- Review of the impact of the legal, political and regulatory environment.
- Review of relevant past and present reform efforts (what? Why? How extensive? What impact? What lessons?)
- Data from in-depth interviews, roundtables, surveys, etc.

Levels of Analysis for Each Principle

For each principle, the analysis will be guided by the following questions:

- Are the legal texts including and not restricted to, the constitution, the laws, the implementing decrees, rules and procedures in place to guarantee the respect of this principle?
- Are the legal texts including and not restricted to, the constitution, the laws, the implementing decrees, rules and procedures applied in practice in a manner that guarantees the respect of this principle in a fair manner for all?
- Are there extra-legal/informal factors which impact the respect of this principle?
- What is the perception of the media and the public about the respect of this principle?

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1. Independence

1.1. **Judicial independence under the Constitution**

Note: if these guarantees are not in the Constitution but exist elsewhere in the legal framework, please discuss.

Elements of analysis (sub-principles):

1.1.1. Specific constitutional guarantees

1.1.1.1. Limited creation of special courts and, when created, limited, clear jurisdiction of such courts

1.1.1.2. Selection of judges by the judiciary power

1.1.2. Structural judicial procedures and laws in compliance with constitutional guarantees for independent judiciary.

1.1.3. Respect of constitution in practice and implementation

1.2. **Institutional Judiciary independence**

Elements of analysis (sub-principles):

1.2.1. Financial independence

1.2.1.1. Budgetary autonomy

1.2.1.2. Adequate resources

1.2.2. Administrative autonomy

1.3. **Personal independence**

Elements of analysis (sub-principles):

1.3.1. Physical and economic safety guarantees for judges

1.3.2. Prohibition of eternal or internal interference with judicial decisions

1.3.3. Proportional judicial immunity against civil and criminal suit

1.3.4. Adequate salaries

1.4. **Freedom of expression and freedom of association**

Note: Please raise the issue of the political affiliation of judges (and their membership in political parties) under this heading, as relevant.

Elements of analysis (sub-principles):

1.4.1. Freedom of expression

1.4.2. Freedom of association

1.5. **Security of tenure**

Note: Please discuss how the laws regulating judicial career processes and the judicial organization are used in practice or may in effect undermine the security of the post, and consequently the independence of the judiciary. The discussion of the elements of the processes and of their criteria will be done under 3.Competence.

Elements of analysis (sub-principles):

1.5.1. Retirement age

1.5.2. Promotion system

1.5.2.1. Appointments based on objective criteria

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- 1.5.3. Transfer system
- 1.5.4. Prohibition of secondment to positions of not legal or judicial nature
- 1.5.5. Discipline system

2. Integrity

2.1. Institutional integrity

Note: This principle relates to the integrity of the judiciary as a whole.

Elements of analysis (sub-principles):

- 2.1.1. Clear and effective jurisdiction of courts
- 2.1.2. Specific and mandatory laws and regulations to fight corruption
- 2.1.3. Code of Ethics

2.2. Personal integrity

Note: This principle relates to the integrity of judges as individuals.

Elements of analysis (sub-principles):

- 2.2.1. Impartiality in decision-making, including respect for Principle of Equality
- 2.2.2. Clear and mandatory conflict of interest rules
- 2.2.3. Regular enforced asset disclosure requirements
- 2.2.4. Level of awareness of the judge for his judiciary mission. (Note: the awareness of the role of a judge corresponds to the knowledge and understanding by judges of the responsibility and authority which are the prerogatives of the judiciary and of individual judges.)

2.3. Integrity of the trial

Note: This principle relates to integrity in the context of the adjudication of cases.

Elements of analysis (sub-principle):

- 2.3.1. Transparent and impartial trial administration (Note: this covers topics such as the rights of the defense, open trials, equal treatment, non-discrimination, etc.)
- 2.3.2. Effective judicial control over trial
- 2.3.3. Clear appeal procedures and possibility of appeal of all judicial decisions without exceptions
- 2.3.4. Access to legal information and court decisions

3. Competence

3.1. Adequate qualifications of judges and judicial personnel

Elements of analysis (sub-principles):

- 3.1.1. Clear and objective qualification requirements
- 3.1.2. Adequate educational and professional qualifications
- 3.1.3. Rules of moral standards

3.2. Standards for objective selection of judges

Elements of analysis (sub-principles):

- 3.2.1. Standard and objective selection criteria
 - 3.2.1.1. Standard criteria for evaluating qualifications
 - 3.2.1.2. Competitive public examination
 - 3.2.1.3. Psychological test

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- 3.2.2. Standard mandatory evaluation system
- 3.2.3. Gender equality staffing

3.3. Clear and objective promotion system

Elements of analysis (sub-principles):

- 3.3.1. Standard and objective criteria for promotion and transfer
- 3.3.2. Regular performance evaluation
- 3.3.3. Standard and mandatory criteria to evaluate performance and implementation
- 3.3.4. Balance and gender equality

3.4. Clear and objective disciplinary system

Elements of analysis (sub-principles):

- 3.4.1. Clear and transparent disciplinary criteria
 - 3.4.1.1. A regulation that defines offenses and sanctions including the right for defense
 - 3.4.1.2. Clear, just, specified and enforced sanctions
- 3.4.2. Disciplinary procedures are managed by the judiciary

3.5. Adequate judicial training system

Elements of analysis (sub-principles):

- 3.5.1. Specialized, continuous training program
- 3.5.2. Specialized judicial institute
- 3.5.3. Adequate resources (Note: human and financial resources)
- 3.5.4. Foreign language training

4. Efficiency of the judicial system

4.1. Clear, transparent and effective judicial laws

Elements of analysis (sub-principles):

- 4.1.1. Up-to-date procedures and systems (Note: these should be regularly updated both in terms of technology and in terms of substance, for example, compliance with international human rights obligations or recognition of modern means of communication)
- 4.1.2. Clear and mandatory procedures for case submission
- 4.1.3. Adequate court staff, including experts
 - 4.1.3.1. Sufficient number of court staff
 - 4.1.3.2. Objective selection criteria for court staff
- 4.1.4. Clear appeal procedures and possibility of appeal of all judicial decisions without exceptions

4.2. Transparent and objective trial management

Elements of analysis (sub-principles):

- 4.2.1. Clear, just and objective case assignment system
- 4.2.2. Case assignment based on specialization
- 4.2.3. Adequate financial resources

4.3. Judgment within a reasonable time

Elements of analysis (sub-principles):

- 4.3.1. Clear and reasonable procedural timeframes for every case according to its classification
- 4.3.2. Disciplinary measures if judges delay court processes

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4.3.3. Disciplinary procedures for lawyers who use dilatory tactics

4.4. Fair and effective enforcement system

Elements of analysis (sub-principles):

- 4.4.1. Specified enforcement procedures
- 4.4.2. Institutional accountability system for the enforcement process
- 4.4.3. Effective enforcement
 - 4.4.3.1. Against private parties
 - 4.4.3.2. Against public entities
- 4.4.4. Adequate enforcement personnel
 - 4.4.4.1. Sufficient enforcement personnel
 - 4.4.4.2. Objective selection criteria for enforcement personnel

IV. CHAPTER FOUR: POLICY RECOMMENDATIONS

Written by: Lead author with the collaboration of the co-author
Background papers may also be requested from contributors
Page number: 10 pages
Draft by:

Note: This is the most important section of the report. It will summarize and organize priority issues and areas in which reforms should be carried out and outline reform strategies. The reforms highlighted will be drawn from the research and the consensus of experts and practitioners surveyed, interviewed and participating in the national workshop.

The recommendation chapter will include a narrative action plan for reform which will highlight short and long term needs and strategies, suggest concrete reforms, and, to the extent possible, direct specific recommendations to identified stakeholders. It will also point to existing barriers or opportunities for reform as well as strategies to overcome barriers or take advantage of opportunities.

The narrative section may be complemented by overview tables included in this chapter or in annex.

V. ANNEXES

- 1) Summary report of the survey(s)
- 2) Best practice indicators for continued monitoring and table of principles
- 3) Bibliography

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