



Lebanon Experts Survey Report: Judiciary Data (Draft)

This summary is compiled for the exclusive use of authors working on the state of the judiciary in Lebanon and ACRLI advisors. This report presents results from a survey of experts on the judiciary system in Lebanon. Information International carried out a survey of both lawyers and judges for the benefit of ACRLI. The total population of registered lawyers in Beirut is 3411 from which 120 were surveyed. On the other hand, the total population of judges is 189, from which 47 were surveyed. The method of sample selection relied on systematic random sampling, based on an exhaustive list of judges and lawyers registered in Beirut. To reach the target of 120 lawyers, Information International had to contact 271 lawyers (low response rate).

Refusal rates were extremely high among judges: 163 judges were contacted but only 47 participated in the research. Information international had to contact almost all the population and still remained 33 judges short of the target number of 80. *Lebanon is the only country surveyed in which the polling agency was unable to secure the minimum number of agreed upon participants.* The high overall refusal rates among both judges and lawyers warrant caution in the interpretation of results.

The survey seeks to examine the judiciary system by highlighting four areas of interest, (1) independence of the judiciary, (2) the integrity/impartiality of the judiciary, (3) the competence of the judiciary and (4) the efficiency of the judiciary. Each topic has a variety of sub-topics, and when combined they are utilized to analyze each of the four areas.

The findings from the survey are presented in two parts. The first part presents an overview of the major findings from the survey, while the second part presents detailed findings from the individual items in the survey. Appendix A presents the detailed findings for each item from the survey and will be referred to during the discussion of the main findings from the survey below.

I. OVERVIEW OF KEY FINDINGS FROM SURVEY

Main Findings: Item Analysis

Comparing the opinions of lawyers and judges in Lebanon with those in the other three countries, lawyers and judges in Lebanon provided the most negative evaluation of the state of the judiciary. Judges, on average, rated 22 items negatively while lawyers rated 52 items negatively (out of a total of 65 questions). Of the 22 items rated negatively by the judges, 21 items are common to both judges and lawyers (only 1 item was rated negatively by judges and not by lawyers).

These 21 items were distributed across the four principles measuring the state of the judiciary: 8 items belong to the independence principle, 6 to the competence principle, 4 to the integrity principle and 3 to the efficiency principle. Three of the top five most negatively rated items referred to the independence within the judiciary.

The lawyers' list of negative evaluations spans items from all dimensions. 19 items referred to the competence principle (highest), 13 items referred to the independence principle, 10 items



referred to integrity (most items clustered in the “institutional impartiality” dimension), and 10 items referred to the efficiency principle. The three most negatively rated items referred to integrity in the judiciary.

Main Findings: Dimension Analysis

When items are combined to measure a dimension of a specific principle (e.g. items 1,2,3,4 as measures of “guarantees of judicial independence”, a dimension of the general “independence” principle), four dimensions were rated negatively by judges, and one dimension (institutional impartiality) earned a neutral score (midpoint of 3). Lawyers on the other hand, rated all dimensions negatively (see appendix A for details).

The most important grievances for *judges* were related to the “freedom of expression and association” dimension. This was closely followed by “institutional independence”, “objective system of promotion” and the “training” dimensions. In sum, the judges’ negative evaluations were split between the independence and competence principles measuring the state of the judiciary in Lebanon.

Items Rated Most Positively

On the more positive end of the analysis, the five items most favourably evaluated by judges and lawyers are presented below:

| | Lebanon | |
|--|---------|---|
| | J | L |
| 39. Litigants can appeal any rulings allowed by the law | X | X |
| 74. Judges can call upon relevant experts | | X |
| 43. Candidates to the judiciary know the rules and the qualifications needed | | X |
| 71. The courts maintain an up-to-date daily records | X | |
| 38. Right to defense and public trials are strictly enforced in all situations | X | |
| 20. It is prohibited to remove judges without relevant justification | X | X |
| 2. Judges are selected by the judiciary | X | |
| 44. The qualifications criteria are applied to all candidates | | X |

Judges ranked items 39, 20, 38, 2 and 71 as the most favourable in the state of the judiciary in Beirut.

On the other hand, lawyers ranked items 39, 43, 74, 20 and 45 as the most favourable in the state of the judiciary in Beirut. Items are relatively scattered across dimensions, with one item in each of integrity, independence, and effectiveness, and two items within the competence section. [see appendix A].



Opinions on Most Needed Reform in Judiciary

The questionnaire included a series of “reform” questions. Participants were asked to rate the importance of reform in each of the subsections of the state of the judiciary questionnaire. It is noteworthy that all reform questions were ranked favourably.

Judges indicated the following five domains as those that require the highest need for reform (presented from highest to lowest):

- 1- Institutional reforms are needed to strengthen the independence of the judiciary (item 9: independence)
- 2- Reforms in the promotion and transfer criteria are needed to improve the competence of the courts (Item 61: competence)
- 3- Reforms to strengthen the personal independence of judges is necessary (item 16: Independence)
- 4- Reforms to improve the judicial training systems are needed to improve the competence of the courts (item 70: competence)
- 5- Reforms are needed to improve the speediness of delivery of judgments (item 83: effectiveness)

Two of the five domains highlighted above refer to competence issues. Two other domains relate to independence. Such clustering is highly indicative of the concerns of judges in Beirut.

Lawyers indicated the following five domains as those that require the highest need for reform (presented from highest to lowest):

- 1- Reforms to promote judicial officials’ personal integrity are needed (Item 36: integrity)
- 2- Reforms in the promotion and transfer criteria are needed to improve the competence of the courts (item 61, competence)
- 3- Reforms to increase institutional integrity are needed (item 30: integrity)
- 4- Institutional reforms are needed to strengthen the independence of the judiciary (item 9: independence)
- 5- Reforms in the disciplinary process are needed to improve the competence of the courts (item 67: competence).

The main reform interests expressed by lawyers seem to hover around increasing integrity and improving the competence within the judiciary system.

II. DETAILED FINDINGS FROM SURVEY

Independence of the Judiciary

Overall, the respondents have mixed to negative opinions on the independence of the judiciary in Lebanon. The results suggest that a majority or plurality of respondents cite a lack of institutional independence, freedom of expression for the judicial officials, and job security as issues which compromise the independence of the judiciary. Respondents also cite concerns about the personal and judicial independence of the judges are varied.



Institutional Independence

- Many respondents consider the judiciary to lack institutional independence. A majority (59%) do not agree the judiciary has adequate resources at its disposal, while pluralities disagree that judges retain control over the administration of the judiciary (40%) or that the budget is not influenced by sources outside the judiciary (38%).

Freedom of Expression and Association

- The majority of respondents do not think that judges enjoy freedom of expression or association. Sixty-seven percent disagree that judges are free to join any professional association while 56% disagree that judges enjoy completed freedom of expression.

Security of Tenure

- There is a concern among many respondents that judges should have concerns about job security.
- While most respondents agree that it is prohibited to remove judges without relevant justification (64%), a majority (56%) disagree that disciplinary measures against judges are clear and reasonable.
- A plurality or majority of respondents agree that threats of transfer (49%), reassignment outside of the judiciary (45%) and disciplinary measures (55%) are believed to be used to pressure judges.

Judicial Independence

- According to a majority of respondents, the constitutional guarantees of judicial independence are not effectively implemented (71%). A plurality also disagree that the laws governing the judiciary fail to comply with the constitution (49%). However, a majority of respondents do agree that the constitution ensures the selection of judges by the judiciary (55%) and outlines a clear and limited jurisdiction for special courts (55%).

Personal Independence

- There is a perception among respondents that while judges may not be pressured by violence (46%) or economic sanctions (55%), sources inside (52%) and outside (68%) the judiciary remain influential in the decision-making process.
- A majority of respondents disagree that judges receive adequate salaries (53%).

Reforms

- Respondents strongly support institutional reforms (92%), reforms in the area of the personal independence of judges (92%), reforms to increase job security (89%), reforms of constitutional texts (88%) and reforms to of the freedom of expression and association of judges (77%) to strengthen the independence of the judiciary.

Integrity/Impartiality

The respondents have varied opinions on the integrity of the judiciary in Lebanon. A majority cite the judiciary as having procedural integrity, but a majority also think that it lacks institutional integrity. There are mixed responses on judges' personal integrity.



Procedural Integrity

- Most respondents believe that basic judicial rights for citizens are upheld, including the right to defense (58%) and the right to appeal a judicial decision (83%). A plurality of respondents have neither positive nor negative opinions on the access to legal information and judgments for both judges (43%) and citizens (45%). A plurality of respondents are also undecided about whether impartiality of trial procedures is maintained in all situations (44%), while 31% agree and 23% disagree.

Personal Integrity

- A plurality of respondents views judges as personally having a high degree of integrity (47% agree, 17% disagree). A plurality also agree that judges do not look into any case in which they may have an interest (44%, 27% disagree). However, a plurality of respondents are likely to have neutral opinion on whether decisions made by courts are totally impartial (45%, 31% agree, 23% disagree). Similar sentiments are also expressed on whether courts strictly enforce the principle of equality before the law (43% neutral, 27% agree, 30% disagree). A majority of respondents disagree that the judges regularly disclose their assets (71%).

Institutional Integrity

- Many consider the judicial system to lack institutional integrity.
- Respondents strongly identified corruption as a major concern as 84% do not agree that the laws to fight corruption in society are enforced, nor are the corruption laws within the judiciary enforced (70%). Perhaps because of this concern about corruption, a plurality of respondents believe that this judicial code of ethics is not clearly enforced (49%).
- A plurality (42%) finds that there is a clear code of ethics that regulate the behavior of the judges. Thirty percent disagree, 28% take a neutral position.

Reforms

- Ninety-two percent of respondents cite personal integrity as in need of reform, with 87% indicating that reforms are necessary to increase the institutional integrity and 74% stating that reforms are needed to improve the integrity of trial procedures.

Competence

The opinion of the competence of the judiciary vacillates from mixed to negative. The results suggest that a majority believe that the judges and judicial personnel have adequate qualifications. However, respondents reveal that the insufficient promotion process and the judicial training systems diminish the competence of the judiciary. The judiciary selection and disciplinary processes have mixed responses, indicating that these issues have little impact on the perceptions of the competence of the judiciary.

Adequate Qualifications

- Candidates to the judiciary are seen as knowledgeable of the rules and qualifications (81%), and of possessing adequate professional training (65%) by a majority of respondents. There are mixed views on whether the qualification criteria for judges are known to all candidates (37% agree, 32% disagree, 30% neutral). There are similar mixed views on whether judges have adequate technical skills (37% agree, 32% neutral, 31% disagree).



Selection Process

- The criteria for selecting candidates is believed to be clear and objective by a slight plurality (41% agree, 34% disagree). Thirty-eight percent of respondents indicate that the selection is based upon competitive exams and that moral integrity is an important component of the process.
- The selection process does not discriminate against women as they are identified as having the same chances as men in the selection process (55%). Moreover, many disagree that the chances for men are higher than for women (55%).

Disciplinary Process

- Sentiment on the disciplinary process are mixed, as 37% disagree that the decisions made by the disciplinary committee is clear and fair, while 30% agree and 33% have neutral opinions. Thirty-one percent both agree and disagree that the decisions made by the disciplinary committees have sufficient explanation.
- While the management of the disciplinary process is perceived as being supervised by judges by a majority of respondents (51%), few (19%) think that this process is independently managed. Forty-nine percent disagree that the process is managed independently.

Promotion and Transfer Process

- According to a majority of respondents, the promotion and transfer process lacks objective criteria (65%), a regular evaluation process on the performance of the judges (66%), and a clear and transparent method (64%). In the promotion process, the possibility that women will have the exact same chance as men is varied, with 39% agreeing and 37% disagreeing, signifying that gender discrimination for this process is an issue for 1/3 of the legal sector. Clearly, the strong negative sentiment suggests that the promotion process is a major concern.

Adequate judicial training system

- A plurality disagree that judges follow specialized training programs (47%, 31% agree). This may be related to the fact that a majority feels that judges lack adequate resources for training programs (51%, 25% agree).

Reform

- Ninety-five percent of respondents highlight the judicial training system and promotion and transfer process as requiring reform. Reforms are also felt to be necessary to improve the qualifications of judges and judicial personnel (93%), the selection process (87%) and the disciplinary process (87%).

Efficiency

Perceptions of the efficiency of the judicial system in Lebanon waver from mixed to negative. The largest concern among respondents is with the lack of a reasonable timeframe for judgments in the judicial system. Respondents do not have as acute concerns about judicial procedures, trial management and the enforcement system.



Judicial Procedures

- While a majority feels that records are available and up-to-date (63%), a plurality also disagrees that the process to obtain the records is made without delays (46%, 21% agree). A majority disagrees that court staff members have adequate qualifications to assist judges (54%), but a majority does agree that the judiciary has access to relevant experts (68%).

Trial Management

- A plurality of respondents view the process of assigning cases as objective (40%, 19% disagree), but a plurality also disagrees that case assignments are based on the specialization of judges (42%, 25% agree). Twenty-eight percent disagree that cases are managed in a transparent manner, 22% agree, and 48% take a neutral stance on this issue.

Enforcement System

- Pluralities indicate that judgments are enforced in a consistent manner (45%), but that there is an insufficient number of enforcement personnel (36%). Forty-six percent cite external pressures as interfering with efficient enforcement of the judicial decisions.

Timeframe for Judgments

- Respondents view the timeframe for judgments overwhelmingly negative, and consider the decision-making process to take too long (62%). Delays in the processing of cases is believed to be permitted (61%) and few disciplinary actions are taken against those who delay cases (61%).

Reform

- The efficiency of the judiciary system requires reforms to improve the speediness of the delivery of judgments (96%). Reforms in the areas of court procedures (92%), the enforcement system (87%) and the management of trials (84%) are all necessary to enhance the efficiency of the judiciary in Lebanon.

III. Missing Data Analysis:

Analyses of missing data indicate that the overall pattern of missing responses did not exceed 2%. On the whole, the questionnaire did not create unexpected complications for participants. However, closer attention to the pattern of missing data points to

- 1- **item 6** “the judiciary received funding from sources other than the government allocated budget (excluding bribery)” had the highest rate of missing data with 41.9% of participants reporting their inability to assess this item. Either participants felt the item to be too sensitive or they did not feel confident enough to provide an assessment on that question.
- 2- four items hovered around the 20-25% rate of missing data; these are: **Item 34** “Judges regularly disclose their assets” (25.7%), **Item 64** “Decisions made by the disciplinary committee against judges are provided with sufficient explanation” (25.1%), **item 65** “The decisions made by the disciplinary committee against judges are clear and objective” (18%), and **item 69** “judges have adequate resources for judicial training programs” (18.6%).



Analyses that include the 5 items highlighted above need to be treated with caution. Results may be biased by a series of factors. Other items with lower values of missing data may be of interest to authors, and are provided in appendix C.

IV. LIMITATIONS

It is important to note that the study does not allow sweeping generalisations about the state of the judiciary; the survey used a random sample of judges and lawyers, but the sample size is too small to allow for confident generalisations. Furthermore, difficulties accessing these population (see refusal rates) limit the ability to generalise to the population since those that accepted to participate in this survey and those that refused may have different characteristics and perspectives.