



Arab Center for the Development of the Rule of Law and Integrity

“Promoting the Rule of Law and Integrity in the Arab countries” Project

Comparative Report on the State of the Judiciary in Lebanon, Jordan, Egypt, Morocco



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Introductory chapter

First: Explicative introduction

The comparative report on the judiciary status in some Arab countries (Lebanon, Jordan, Egypt and Morocco) falls within the framework of ACRLI work for knowledge building and promotion, and for the support of reform efforts in the Arab countries, mainly in the field of the state of law which constitutes, according to international consensus, one of the basis of good governance and a core means for development and human rights protection.

This report is based on the four national reports of Lebanon, Jordan, Egypt and Morocco, with the support of UNDP-POGAR and the assistance of the International Foundation for Election Systems (IFES), in an attempt to achieve a clearer presentation of the judiciary status in these countries. Judiciary plays a pivotal role in promoting the state of law in its capacity as the constitutional authority entrusted with law implementation and explication.

National experts who prepared the national reports adopted a definite methodology based on three chapters:

Chapter 1:

It deals with the judiciary background in the concerned countries and the historical context of development, including an analytical description of the established judicial system and a scientific presentation of legal and regulatory frame, in addition to influencing and interactive political, economical and social factors. Moreover, this chapter exposes briefly the case of judicial reform and judiciary aptitude to development and modernization to keep pace with relevant principles and criteria in the framework of actual environment and previous experiences.

Chapter 2:

It considers the analysis of general principles for a sound judiciary which are independence, integrity and impartiality, competence and efficiency. Then it exposes the extent of textual and practical commitment to these principles in the countries concerned.

These basic principles are subdivided into several secondary points dealing with each principle special details, as regards the judiciary formation, legal specifications, and implementation showing the extent of national judiciary conformity with the international principles and criteria for rightful judiciary.

Chapter 3:

The third and last chapter presents a series of recommendations set on the basis of the analysis results achieved in chapter 2, to constitute specific and practical introductions to judicial reform at the level of each country according to its particularities and requirements, and a means to ensure conformity with the international general principles indispensable for a fair, impartial, competent, effective and independent judiciary.



The comparative report adopts the same methodology of the national reports, and acknowledges, more particularly, the results achieved by national experts. It leans on their results and recommendations presenting them in a comparative frame, on the basis of available information, in an attempt to highlight common characteristics of judicial reform in the Arab countries.

It is worth mentioning that, in the course of the national reports preparation, two surveys were performed on the basis of the formulation foundations and methodology of the reports. The first survey was addressed to the specialists including lawyers, judges and legal academicians, whereas the second survey was conducted in the midst of public opinion. Both surveys results are available at the Arab Center for the Development of the Rule of Law and Integrity (ACRLI).

Second: General Conclusions

The national reports reveal many common denominators between Lebanon, Egypt, Jordan and Morocco as regards the judicial system, in spite of partial differences at the level of the provision and the application. All these countries adopt legal regulations based on two common cultural heritages. One is the Ottoman legal heritage that observes the Islamic Shari'a and the French objective law applied after the second half of the nineteenth century. The other is the German Roman legal heritage that governs legal systems in most of the European countries.

Reports demonstrate a considerable similarity in the judicial reform requirements in the concerned countries, considering disparate respect of judiciary principles in each country at both provision and implementation levels.

Judiciary independence is firmly established in these countries constitutions because of the principle of separate powers they adopt. However, laws of judicial regulations do not sufficiently consecrate this separation as required in the international principles and criteria. These laws often stipulate financial and administrative means enabling the executive authority to interfere in the judiciary authority affairs, discrediting judiciary independence and affecting individual judges' effective and impartial work beyond any political pressures. The executive power influence affects also the Higher Judicial Councils in these countries where the law grants power, influence and membership to the Premier or to the minister of justice.

Judiciary integrity and impartiality are principles not quite duly applied. The impact of the executive power on the management of the judiciary power affairs, and the establishment of and the repetitive recourse to exceptional courts, affects judiciary integrity to a large extent. This comes with the individual judge stimulation by external sectarian, familial and tribal factors, even if this influence varies from one country to another.

The national reports showed the insufficient interest to ensure to the judge a physical and economical protection as an essential element for integrity and impartiality.

As for the judges' competence, the reports showed that competence standards for selection and promotion are not entirely observed, and that the judicial institutes were not as effective as it is required in most of these countries before the seventies of the past century. In fact, a large number of these judges didn't pass any exam and the appointment occurred at the discretion of the executive power, and sometimes notwithstanding the required qualifications for appointment.



Reports show a significant similarity in judiciary lack of efficiency in the concerned countries which under obstacles and difficulties mainly as regards efficient courts and executive offices. The judiciary in these countries suffers from low speed trials, lacks efficient means of management, and firm implementation of legal delays. It also endures shortage of skillful man power and experiences in the assistant system. This is the case on which all reports emphasized. They also recommended the necessity to activate the enforcement apparatus and facilitate its complex procedures.

Similarities among the concerned countries are not restricted to the nature and requirements of the judicial system, but encompass the awareness of responsible persons of the need to develop the judiciary, although the real reforming efforts vary from one country to another. This guarantees its advance towards the international principles and standards the reports insist on implementation and respect through their recommendations.

Third: Briefing on the national surveys

A third implement, “the surveys”, could be added to the principles and methodologies set by the Center, and which aim to study the perception of the judicial authority in each related country.

The judiciary integrity principles served, in cooperation with the international foundation for elections systems, for drafting the surveys methodologies as for the formulation of a special questionnaire. The preparation of the surveys begun by holding focus groups and concluded by setting two groups of questionnaires related each to a different survey: (1) experts survey and (2) public opinion survey.

The first survey included a set of questionnaires dedicated for the experts in the each pillar, which are judges and lawyers concerning the judicial pillar hereby, and that’s in Jordan, Lebanon, Morocco and Egypt. As for the second survey, it has included a set of general questionnaire which were developed for the public opinion in the three pillars at the same time in order to be posed randomly to people in the four related countries.

A deep and an accurate discussion followed the preliminary preparation of the surveys in order to extract them in four separated questionnaires: the first questionnaire for experts in the judicial pillar, the second questionnaire for experts in the parliament pillar, the third for experts in the Media pillar and the fourth for the public and related to the three pillars. Furthermore, each of the questionnaire that were developed went through a lengthy pilot testing in each of the four countries targeted (lebanon- Jordan – Egypt and Morocco). The pilot used small samples with detailed feedback from the participants. Results led to further refinement of the expert user questionnaires before its final implementation.

The general population surveys aimed to lay out the foundation for the construction of a comprehensive, reliable and valid measure of a “sound judiciary”, Media, and Parliament in the four countries targeted and enable the empirical *rating* of the state of the judiciary, media and participation in each country surveyed as well as to enrich the conceptual and analytical evaluation of the state of judiciary national reports.

The questionnaire tapped into 4 major dimensions (independence, integrity/impartiality, competence, and efficiency) and contained 108 questions, 70 of which asked participants about their evaluation of specific aspects of the judiciary, 17



items asked about the reforms needed, and 21 items provided a general evaluation of the state of the judiciary in the participant's country.

The general population surveys aimed at identifying the public's perception of the state of the judiciary in each country surveyed. The questionnaire consisted of 74 questions. For the use of this book, we will discuss the results of the judiciary pillar and its relative questionnaires which emphasized on 4 categories; independence, impartiality/integrity, efficiency and competence. They included questions pertaining to experiences with the judicial system, and questions examining participants' experience with their lawyers and their evaluation of the judge handling the case.

The surveys were performed during 2006 year in the four targeted countries, by polling agencies which worked in cooperation with the ACRLI's regional survey unit. Many limitations weaken the ability to generalise to the entire population such as: the refusal rates within this population, restriction of the surveys to specific target cities in each country, the difficulty and complexity for the population of the questionnaires list, the general level of freedom in the countries surveyed.

Regarding the results of the surveys, we can conclude:

Concerning the experts surveys: Judges and lawyers differed in their evaluation of the SOJ. Specifically, judges expressed a significantly lower amount of negative evaluation than lawyers did (average ratio about 1:3). If we consider the number of items/dimensions that received a negative evaluation as an indicator of the SOJ in each country, then the best ranking are the following: according to judges: Morocco, Jordan, Egypt than Lebanon; according to Lawyers: Egypt, Jordan, Morocco, Lebanon. The most significant grievance across lawyers, judges and countries relate to freedom of expression and association, a sub principle of the independence principle in the SOJ. The most common types of reform pertained to the competence dimension. Moreover, both lawyers and judges, in Egypt, Jordan and Morocco, stressed on the need for reform to strengthen the qualifications and skills of judicial officials.

As for the public opinion survey, both the Egyptian and the Lebanese samples reported low interaction with the courts (16 and 22% respectively), while Jordanian and Moroccan participants reported higher levels with 1 in 3 participants having had some experience with the courts. Bribery of court staff also varies between countries; the lowest rate is reported in Jordan (19%) and the highest in Egypt (almost 60%).

Bribery of judges is significantly lower than bribery of court staff, with the lowest rate reported in Egypt (11%) and the highest in Morocco (25%). Participants in Egypt and Lebanon have a favourable evaluation of their lawyers' performance and a divided evaluation of the judges' performance. Participants in Jordan expressed mixed reviews, with opinions relatively divided between positive and negative evaluations to both the lawyers and the judges' performance. Participants in Morocco had mostly negative evaluations of both their lawyers' and the judges' performance.

In comparing this both surveys results, we can find that the public evaluation of the SOJ differs from experts in the field, especially in Morocco. Generally, the public in all cities surveyed had a more negative evaluation of the SOJ in their country (Egypt and Jordan: half of items negatively; Lebanon and Morocco about 85% of items negatively). Reform request centre on independence and efficiency with few concerns related to competence and integrity (except Jordan). Participants in both Egypt and Lebanon ranked reform priorities in a similar way (independence, then integrity, then efficiency then competence); these ranks changed for Jordan (efficiency, then independence, then competence, then integrity) and for Morocco (efficiency, then integrity, then independence then competence).



From this summary of the surveys' results we wind up the **importance** of conducting of these parallel empirical investigations to accompany and supplement its expert evaluation of the state of the Judiciary (SOJ), in Egypt, Jordan, Lebanon and Morocco and to provide empirical support for the analyses.



First Chapter

Judicial environment in a number of Arab countries

First- Genesis and evolution of the Judiciary

The Lebanese, Jordanian, Egyptian and Moroccan Judiciaries all share a much similar legal and judicial heritage, with some differences between the different countries. On the one hand, it is the legatee of legal systems that are based on the Islamic law (Shari'a), in addition to social, tribal, familial and confessional inheritances; and on the other hand, it is the fruit of the Romano-German system which was brought to the region through Turkish organizations, and European colonization and mandate during the 18th and 19th centuries. These two trends have affected these countries at varying degrees.

The historical evolution of the judiciary differs from one country to the other. The modern Egyptian Judiciary is the oldest as it started to develop into its modern shape in the second half of the nineteenth century with the establishment of Mixed Courts in 1875, and of Civil Courts in 1883. However, the Judiciary did not acquire its current shape until the abolishment of foreign privileges in 1937, of religious courts and Mullah Councils in 1956. The Egyptian Judiciary was distinguished, throughout the different stages of its formation, with the judges' propensity for independence, regardless of the ruling system. Hence, they preserved the independency of judiciary in Egypt, despite numerous clashes that occurred and still do, with the executive power which established throughout history many exceptional courts under various denominations to avoid normal judiciary.

The modern Lebanese Judiciary emerged with the mandating country (France) in the early twenties of the last century. The Lebanese constitution of 1926 stipulated that the Judiciary is one power among the three state powers. The Lebanese Judiciary reached its peak levels of performance in the early seventies, but then started to suffer from the civil war and the ensuing trusteeship till 2005 that entailed negative repercussions on the development of the Judiciary. However, the judiciary remained independent to a large extent; real effort is currently exerted with the hope to promote this independence.

The Moroccan Judiciary stepped from the stage of tribal or religious courts to a state of judicial dualism under the system of French and Spanish protection. This state of judicial dualism remained prevalent until 1959; it was followed by a period of judicial reform that unified and arabized the judiciary in the seventies. Then, a process of reform and development took place, leading the judiciary to its modern shape.

The Jordanian Judiciary started to evolve with the declaration of the Emirate of Transjordan in 1920. In Addition to the religious judiciary, tribal judiciary emerged in 1924 –it was abolished later on-, followed by a regular judiciary that was instituted by the Organic Law of 1928. The Jordanian Judiciary did not take its current shape until 1952 with the promulgation of the Jordanian constitution which organized the judicial authority and guaranteed the independence of the judges.



Second- Judicial regulation

The judicial regulatory laws in the four countries are similar as they all adopt the principle of multiple courts' degrees in administrative, penal and civil judiciaries. Lebanon is still the only exception as it adopts the principle of multiple courts' degrees in civil and penal judiciary without the administrative judiciary which still consists of one court degree. Although a law providing for the establishment of administrative courts that appeal their sentences before the State Council has been ratified, but executive decrees for this law have not been promulgated yet.

The Moroccan and Lebanese Judiciaries adopt sub-judiciary dualism: civil judiciary and administrative judiciary, the latter with administrative and financial branches. The Egypt Judiciary adopts this dualism but does not provide for a financial judiciary within the administrative judiciary as the central system for accountabilities does not have any judicial powers. Contrary to the other concerned countries, Jordan has a unified judicial system which deems the administrative judiciary -which is unified - as part of the judicial organization of the courts. Its role is limited to special challenges of the general judiciary and the defeasance judiciary, without any consultancy role regarding draft laws and decrees. In addition to regular courts, exceptional courts exist in the four countries, with some discrepancies in their jurisdictions and in the extent to which they are resorted to.

Third- Issues of judicial reform

The national reports all agree on the need to follow through and encourage endeavours aiming for reform in order to promote judicial independence, impartiality and integrity and to raise judicial efficiency and competence. These reports addressed judicial reform efforts in the four countries and highlighted the achieved progress in Jordan and Morocco. These reports underlined the fact that these endeavours achieved partial reform in Egypt and Lebanon.

In Jordan, a “Royal Committee for the Development of the Judiciary” was established by virtue of a letter addressed by King Abdullah the Second on the 29th of August 2000 to the Premier instructing him to develop the judicial system and its supporting tools. With the participation of the executive power, this committee studied the status of the judiciary and diagnosed some of the problems it suffers from and the needed reforms to turn it into an independent power capable of exercising its role. The committee's report comprised recommendations for reform in three axes: legislation, human power and infrastructure. After the Royal committee for the Development of the Judiciary accomplished its task, there was a period of remarkable activity within the Jordanian Ministry of Justice and the Judicial Council aiming at putting a plan for judicial development. The Ministry of Justice elaborated a strategy for the development of the Jordanian Judiciary (2004-2006) and relevant plans for execution, with the cooperation and funding of international sides. This strategy is based on 11 reform axes and aims at (1) promoting judicial independence and guarantying its competitiveness and harmony with the best world practices, (2) promoting the ministry's institutional capability as to enable it to perform its tasks, (3) providing necessary systems and cadres for courts to increase their efficiency, (4) providing all the parties involved in the litigation with effective services and support to promote each party's ability to perform its task in serving justice. Despite all this, the report points out to the instability in the post of the minister of Justice; this instability hinders the implementation of these reforms according to set priorities and schedules.



The report also points out to the fact that concerned parts concentrate on the normal judiciary without the other judicial sides, which leaves a negative impact on the effective and comprehensive development of the judiciary.

In Morocco, the judicial system went through different stages of reform. The seventies witnessed a legislative development campaign that tackled the judiciary organization, the law of civil procedure, the by-law for judicial cadres. Some articles of the penal procedure were amended. The aim behind this campaign was to reorganize the judicial body, simplify procedures, guarantee the quick enforcement of verdicts and narrow the gap between the judiciary and the litigants. This period was also distinguished by the introduction of Communal and Districts Courts which settle minor conflicts. In the nineties, reform expanded to encompass task as: establishing specialized administrative and commercial courts; amending the specialization and organization of the Ministry of Justice and the by-laws of prisons; focusing on treating the problem of the enforcement of judicial sentences; looking into human reform; promoting judicial inspection; narrowing the gap between the judiciary and the litigants; and developing the law of penal procedure and penal law. Despite all this, the report points out to the fact that reform efforts focus on technical issues regardless of other issues such as the independence of the judiciary which still suffers from the fact that it is appointed by politicians for different purposes, of the issues of the fight against corruption, the promotion of efficiency, the modernization of the Moroccan judiciary, or the incapability of the judiciary to organize syndicates or establish effective demand associations that enable it to seriously participate in the reform process.

In Lebanon, the judicial reform issue lies under the influence of political fluctuations that hinder the elaboration of a comprehensive reform plan such as the one existing in Jordan, or of effective reform steps such as those taken in Morocco. The clearest example is the President of the Republic's current refusal to sign the judicial nominations decree after it had been unanimously approved by the Higher Judicial Council and ratified by the Minister of Justice. Lebanon is thus content with partial reforms on the technical level such as: installing modern equipments and libraries in the Houses of Justice, computerisation, the development of judicial institutes, and training judges.

In Egypt, reform efforts are limited to some technical and partial issues. Judges – represented by the Club of Judges- still demand a comprehensive judicial reform, but did not reach an agreement with the executive power which enjoys a great influence over the judicial power through its influence on the Higher Judicial Council and the Supreme Constitutional Court, or through the establishment of exceptional courts and the repetitive resort to them. The most important reform project currently under study outside governmental circles is the project law for the judicial power elaborated by the Club of Judges.



Chapter two

Assessment of the Judiciary in a number of Arab countries in the light of the principles of sound judiciary

This chapter addresses the state of the judiciary in Lebanon, Jordan, Egypt and Morocco as to their closeness to or distance from the principles and standards of sound judiciary (divided into lateral points) which are: 1) judiciary independence, 2) Integrity and impartiality, 3) judiciary competence, 4) Judiciary efficiency

First: judiciary independence

1-Guarantees of Judiciary independence

1-1 Texts regulating the Judiciary power

In the constitutions: The constitutions of Lebanon (article n° 20), Jordan (article n° 27), Egypt (article n° 165) and Morocco (article n° 82) all provide for a judicial power that is independent from the executive and legislative powers. They also guarantee the independence of judges in performing their tasks. These constitutions defer with regard to judicial guarantees; the Lebanese constitution referred this matter to the law, while the Jordanian and Moroccan constitutions cited this subject briefly. Both stipulate that the transfer and dismissal of judges is subject to the King's decision. They both referred the issue of guarantees to the law but confirmed courts' protection from any interference. The two constitutions relegated the details to the care of the law. The Moroccan constitution outlined that the Higher Judicial Council watches over the implementation of the guarantees. (Article n° 87).

As for the Egyptian constitution, it is different from the other constitutions as it largely emphasized the independence of the judicial power and the judges, confirming the non-dismissal of judges (article 168). It also stipulated that the State Council is an independent judicial committee which settles administrative and correctional litigations (Article 172).

In the legislations: Laws regulating the judicial powers as well as the laws of procedures or pleadings in the concerned countries reaffirmed and separated the special concepts of the judiciary's and judges' independence. So does the code of civil procedures, the code of justice and the law of the Lebanese State Council, as well as the law of the judiciary power in Egypt and the judicial laws in Jordan starting from the judiciary independence law to the laws of different levelled courts formation. So did the judges bylaws in Morocco.

In International treaties: The concerned countries are active members of the United Nations Organization and had already agreed on the International Declaration of the Human Rights, the International Convention of Political and Civil Rights. They all have participated in the 1986 Milan Declaration for Judiciary Independence. All these treaties and conventions comprise clear texts regarding the independence of the Judiciary.

Exceptional and private courts- codified exceptions to the principle of judiciary independence: Exceptional and private courts are established beyond the basic rule of normal judge and in violation of the principle of judiciary independence as many of these courts are subjected to influence coming from outside the judicial power. Although the legal and constitutional texts emphasized the general principles of the independence of the judicial power and



the judges as well as on all requisite relevant guarantees, one notices that all the concerned countries do not completely abide by this principle as they acknowledge- very often-and resort to exceptional courts. .

For instance, the Egyptian constitution (articles n° 171, 179 and 183) provides for the formation of exceptional courts such as the State security courts, military judiciary and the ethics court (socialist general prosecutor system) and other courts, all working under the supervision of the executive power. The law can form (article 167) “judicial committees” that fall under the authority of the Higher Council for Judicial Committees, a governmental non-judicial committee. Should the sitting judiciary be codified as a judicial committee, similarly to what had taken place in 1969, the judiciary will fall –in matters of jurisdiction, nominations, conditions and appointment procedures- under the authority of this Council which comprises public servants in different administrations in the executive power who work as legal consultants not affiliated to the judiciary power.

In Lebanon, the law established exceptional courts such as the military courts whose jurisdiction extends over militaries and civilians in settling their conflicts with militaries, in addition to the Council of Justice which is a first instance court that examines crimes affecting national security. We will explain in detail these two courts later on. There are as well groups of private judicial committees such as the appropriation committees and objection on taxes committees, the publications court, the private court for tumbling banks, referee councils and others.

In Jordan, there is a wide variety of exceptional and private courts, the most important of which being the State security court which is instituted by the Prime minister who refers to it any case that violates or threatens economic security. There are as well in Jordan customs and police courts as well as a military Council related to the intelligence service.

In Morocco, the law established- under constitutional silence regarding the legitimacy of exceptional courts- a number of exceptional courts, namely at the penal level. Next to normal courts, exceptional penal courts were instituted, such as the private justice court and the military justice court. The private justice court was abolished in 2004; it was initially instituted to examine corruption crimes committed by public servants. Courts of military justice or judiciary that go back in time to 1958 still exist: military courts for armies that are instituted on occasional basis at war time, as well as the permanent military court. Another penal court of private and exceptional aspect exists, its is the Higher Court provided for in the constitution, it examines crimes and offences committed by members of the government while performing their duties, but it had never convened until the present time.

1-2 Right to decide Judicial appointments

The Right to decide judicial appointments is the most important jurisdiction that should be given to the judiciary power as a guarantee for its independence. However, the national reports pointed out to the absence of this jurisdiction which is practiced by the executive power.

In Lebanon, the Higher Judicial Council prepares and ratifies judicial appointments, individual or group annexations, then refers the same to the minister of justice (to the minister of defense with regards to military courts) for ratification before referring the same to the cabinet for promulgation in a decree. High positions in the judiciary are subjected to confessional partition both in appointments and nominations, due notice should be made to the



disproportionate transfers in ordinary judiciary and religious and confessional judiciary, which is generally less subjected to interference in appointment and transfers in Lebanon.

In Jordan, judicial appointments are not restricted in the hands of one side with regards to the wide variety of courts and their references in appointing and nominating their judges, the major part being in the hands of the executive power. The members of the court that tries ministers “the Higher Council “ are judge members appointed according to the constitution (article n° 57) whereas the chief and members of the religious Council are appointed by virtue of a cabinet resolution upon a recommendation presented by this confession. Judges of the State Security Court are appointed by the premier, upon recommendations presented by the minister of justice with regards to civil judges, and by the Joint Chief of Staff with regards to military judges. As to regular courts and some private courts, the Judicial Council is empowered to appoint their judges, upon a recommendation by the minister of justice and a royal will ratifying the decision of the Judicial Council. Judges appointment in religious courts is done by judicial councils within these courts.

In Egypt, the Higher Judicial Council assumes judicial appointments. Many texts were amended as they target this principle, namely the texts that yield to the minister or ministry of justice authority or effective supervision over judicial affairs. The law gave the minister of justice the power to delegate judges temporarily or when necessary to other courts after checking with the general assembly of the court to which the judge is affiliated, upon the approval of the Higher Judicial Council. As to the public prosecution, article 119 of the law stipulated that the public prosecutor be appointed upon a decision made by the President of the Republic without the need to consult with or receive the approval of the Higher Judicial Council. Transfers within the public prosecution are made upon the decisions of the Minister of Justice. The same thing goes for Morocco where the minister of justice has been granted great authority regarding judges’ bylaw, the transfer of judges of the public prosecution, and some of sitting judges charged with cases of marriage, minors, judicial attachés and investigation magistrates.

1-3- Level of respect of constitutional guarantees for judiciary independence in laws and in practice

After demonstrating the existence of constitutional guarantees to the independence of the judiciary in the constitutions of the four countries, with slight discrepancies in the quality of these guarantees, we should look into how far these guarantees are observed by the law, namely judicial regulatory laws, as well as in practice and enforcement.

In Lebanon, in the absence of a unifying code for all judiciary regulations, the report concludes that the different laws regulating the judiciary do not entirely consecrate constitutional guarantees. The different laws grant the executive power, the authority to name the public prosecutor before the court of cassation as well as the chief and the members of the judicial inspection committee, the chief of the accountability office, its public prosecutor, chiefs of chambers and the head of the State Council, the chief of the council’s bureau, in addition to the chief justice of the court of cassation, thus the chief of the Higher Judicial Council. It is also the case in texts regarding the appointments, nominations and transfers; they all limit the independence of the judiciary as they allow the



executive power to interfere in the judicial life and therefore are deemed derogatory to the principle of independence stipulated in the constitution. Moreover, the religious judiciary and judicial committees in Lebanon fall under the authority of the Higher Judicial Council, thus undermining the independence of the judiciary within.

In practice, the report shows that the judiciary was been historically regarded in Lebanon as a public facility affiliated to the executive power, not a power as stipulated for in the constitution. This fact is documented in 1) governmental papers such as the official communiqué issued by the ministry of interior on 7/2/2002 which points out to the interference of the Premier and the minister of justice in the work of the judiciary through their illegal contact with the judge head of clerks during the elections, and 2) the media as the judicial inspection's circular published in An-Nahar daily newspaper on 11/12/2005 requesting judges that are undergoing contacts with political references regarding judicial transfers to avoid doing that, and a declaration made by a former chief of the Higher Judicial Council to the As-Safir daily newspaper on 14/11/2002: "the independence of the judiciary in Lebanon is illusive and not true; it is a tool in the hands of politicians who interfere in its affairs", and 3) in the resignation of some judges as an objection for the non-respect of the principle of the judiciary's independence, some have even certified this in their letter of resignation. The clearest example of the political fluctuations on the judiciary is the crisis that arose since 11/11/2005 regarding the appointment of some judges in the Higher Judicial Council with the expiration of the mandate of 5 of the Council's judges. A conflict arose between the executive powers upon the nomination of replacing judges; the Council is now paralyzed and cannot perform its duties.

In Jordan, despite the fact that the constitution instituted an independent judicial power, laws regulating the judiciary did not entirely consecrate this constitutional trend. In addition to the absence of a unified judicial reference for the different courts, laws regulating the judiciary give the minister of justice multiple prerogatives as to the need to consult with him regarding the names of candidates to regular judicial posts, the supervision exercised by the judge of judges- affiliated to the executive power- on religious courts and judges. On the other hand, there are rules governing litigation procedures that impose on judiciary conditions for the use of its jurisdictions, thus affecting the role of the judiciary in exercising its full powers. In practice, the report considers that the ongoing resort to private courts that are sometimes instituted by the executive power, such as the state security court and the confessional courts has the greatest negative impact on the independence on the judiciary in Jordan.

In Egypt, the latest amendments helped consecrate the independence of the judiciary which is constitutionally guaranteed, by abolishing texts that give the minister or ministry of justice the power of effective supervision over judiciary affairs. The law gave the minister of justice the authority to delegate temporarily and when necessary judges to tasks outside their courts after consulting with the general assembly of the court to which the judge is affiliated and acquiring the consent of the Higher Judicial Council. As the general prosecution, the law regulating the judiciary gives the prerogative to name the public prosecutor to the president of the republic without the need to consult or get the approval of the Higher Judicial Council. The members of the public prosecution abide by the decisions rendered by the minister of justice.

In Morocco, laws regulating the judiciary limit the constitutional guarantees regarding the independence of the judiciary. Texts gave many jurisdictions to



the Minister of justice regarding the judges' bylaws such as appointment, promotion, transfer, disciplinary actions, revocation and retirement. The judges' bylaws and the penal procedure law put these judges of the public prosecution under the authority of the minister of justice after consulting with the Higher Judicial Council. The bylaws gave the minister of justice the authority to appoint judges, be it court judges, public prosecution judges or investigating judges. This prerogative limits guarantees provided for the transfer of judges, but the legislator provided that these powers be not used unless when needed, under a set time limit.

2- Institutional Judicial Independence

Institutional judicial independence requires many conditions, namely a Higher Judicial Council that enjoys free decision-making as well as administrative and financial independence. On this basis, information available in the reports does not reflect the presence of such independence in the concerned countries.

Regarding to judicial councils, the reports show that they fall partially or entirely under the influence of the executive power, be it with the appointment of their members by the executive power as is the case in Lebanon, or through non-judges being members or even presiding the same as is the case on Jordan and Morocco. Moreover, the minister of justice in these three countries is even granted at varying degrees the authority to practice the role of administrative supervision on the judiciary.

In Egypt, the allocation of some of the judicial Council jurisdictions to the higher Council of judicial committees that comprise non-judge members, with prerogatives extending over non-judges in legal and consultative committees in the country, has undermined the institutional judicial independence. However, the latest amendment of the law of the judicial power have achieved some progress on two levels as it imposed the approval of the Judicial Council on the decisions regarding judiciary affairs, and limited the powers of the minister of justice while keeping some enabling him to interfere in judiciary affairs, such as giving him the right to delegate members of the back bureau of the court of cassation, form partial courts choosing their locations and defining their jurisdiction. It has also the right to object decisions taken by the general assemblies and the committees of temporary issues in courts, the nomination of consultants to the court of cassation and others. Judicial inspection is still affiliated to the minister of justice who is entitled to suggest on the public prosecutor to take disciplinary actions against judges.

As to financial and administrative independence, the laws, as was clearly shown above, allow the executive power to exert financial and administrative supervision, be it at varying degrees between the different countries. It also does not guarantee independent budgets for the judicial power, thus undermining the judicial institutional independence in the four countries.

3- Judges' individual independence

Judges' individual independence imposes guarantees for the judge's economic and physical safety, in addition to a relatively immunity against penal or civil prosecution and incrimination of external interference aiming at influencing him.

The four countries lack special guarantees for the **judges' physical safety**, at the exception of penal texts that incriminate any aggression against them. These laws do not provide for intensive protection for judges in charge of sensitive matters outside



the palaces of justice and court buildings. The Moroccan report points out to the possibility of affording judges with private compensations for damages that they may incur while performing their duties or as a result of the same.

As to financial security, the reports stated that the judges salaries are not enough compared to the power of purchase, with discrepancies form one country to the other. In Lebanon for example, the report detailed the salaries, bonuses and scale of salaries, concluding that the judge's salary in Lebanon, if we add the bonuses and other benefits from the Cooperative Fund, is acceptable compared to salaries paid in other sectors in the government. In Jordan, a judge's salary is acceptable if compared to the salaries of public servants. This is not the case in Egypt where salaries are too low and indirect means such as bonuses and monetary compensations are resorted to in order to raise the judge's income. In Morocco, the report stated that judges' salaries are not sufficient.

Regarding guarantees against non-interference and external an internal influence on the judges' decisions, all penal laws as well as judicial power systems in the four countries incriminate the influence and attempts of influence on the decision-making whether by intimidation or raising interest, whether through interference in the judge decision-making or by using influence, mediation or bribery. The Jordanian and Lebanese reports tackle the interference on judges' with examples. In Lebanon, the report points out to the non-implementation of these laws in a satisfactory manner, mainly when the external interference and pressure might be coming from other authorities, as when the judge is professionally punished in some case for refusing such interference. The reports states examples of judges who were professionally punished as is the case of a judge who, when examining misdemeanour and contraventions, acknowledged the legitimacy of a certain political movement and the right of its followers to express their opinion, which did not please the executive power. As result, this judge did not get promoted and his jurisdictions were limited to examining contraventions and car contracts. External interference is not exerted by the executive power alone, as religious, confessional, tribal and relations between judges influence judicial affairs,

In Jordan, despite constitutional and legislative guaranties provided for by the law of judicial independence enforced on judges of regular courts, and the law of sanctions in addition to the rules of judicial behavior elaborated by the Judicial Council, these provisions do not come into force in practice. The proof is in the report which stated that there are no litigations based on the provisions of these texts as well as in the 2005 survey regarding the judiciary which showed that 42 % of the surveyed citizens and the lawyers stated that judges are subjected to pressure by individuals and groups aiming at influencing their verdicts, that 27 % of the surveyed judges mentioned that different individuals and groups have practiced pressure on judges.

As to **Relative immunity against penal and civil pursuits**, the four reports stated that the judges in the concerned countries enjoy a relative immunity against penal and civil pursuits. Generally, there is no constraint for such a pursuit, if approved by the Judicial Council -mainly in detention or arrest situations- except for serious flagrante delicto. Procedures of prosecution are the same, as the related provisions are private and stipulated by the rules and regulations of the aforementioned countries. In Lebanon, the civil prosecution is undertaken by the state enjoying the right of review against the judge unless if the state itself is prejudiced, with differentiation between the responsibilities of judicial, administrative and common (religious) judges.



4- Ensuring job independence

Job independence is yet another guarantee for the independence of the judiciary, with regards to special guaranties for the retirement age, promotion system, transfer, and disciplinary actions.

The retirement age is set by the law in the four countries. It varies between one Country and another and is extendable in Morocco to two additional years for two consecutive times upon a decision and recommendation made by the minister of justice. In Jordan, the Chiefs of the court of cassation and the Supreme Court of justice continue their work until the expiry of their mandate even after they reach the retirement age.

As to the nomination of judges, it is ruled by objective conditions with some exceptions in some countries such as Jordan where the nomination of the State security court and the religious courts' judges is not governed by any objective rules. The Jordanian report outlined the fact that weak institutional organization of the judicial Council often influences its capability to implement these objective conditions with the requested exactitude.

As to promotion systems, they are codified in the four countries with a major role for the executive power handled by the minister of justice and a consultative role for the judicial councils with slight discrepancies and exceptions. In Lebanon, the minister of justice is forced to ratify appointments and permutations without amending them if ratified by the Higher Judicial Council with a two-third majority. The Jordanian law stipulated alone that the promotion of a judge is performed on the basis of competence and qualifications subjected to the Judicial Council and investigation committees' assessment.

Regarding the delegation and transfer systems, the situation varies between one country and another. In Lebanon, no fixed criteria are set for judges' transfer among courts. Judges abide by the two-year rotation system, subjected to the discretion of the Higher Judicial Council. However, the law forbids that a judge be delegated for a task with no judicial or legal aspect, except for the permission for the judge to teach in universities and the permissions to transfer State Council judges upon their consent to public administrations and institutions.

In Jordan, the judiciary independence law stipulated the rules governing judges' transfer, delegation, seconding and resignation. The law gave the judicial Council the power to delegate a judge for any task serving public interest for a period not extending over more than 3 months.

In Egypt, the law prescribed meticulously the conditions of transfer and determined herein the authorized reference to take a transfer resolution in each case putting the judges of the public prosecution under the direct authority of the minister of justice. The law provides for the temporary delegation of a judge for tasks in governmental administrations, ministries and institutions, in some banks and companies for no more than 3 months, and permission to teach in universities.

In Morocco, according to the constitution, court judges-except for public prosecution judges- enjoy immunity against transfer unless if otherwise stipulated by the law. However, this guarantee is violated by the law binding the judge to accept the suggested post. The delegation authority is in the hands of the minister of Justice. Judges do not have the right to object. This authority is bound to some restrictions as delegation should aim to fill vacant posts in the judiciary and should extend over a limited period of time. There are no provisions that deny the right to delegate judges for tasks that do not have a judicial aspect.



The four countries have a disciplinary system. The disciplinary executive committee differs from one state to another. In Lebanon, it is carried out by the disciplinary and investigation committees. In Jordan, the Judicial Council assumes personally the charge of taking disciplinary measures. In Egypt, distinction is made between members of the public prosecution who fall under the authority of the minister of justice and the sitting judiciary- the latter giving the minister of justice the right to administrative supervision on all the courts, and the right to request a judge be pensioned off or transferred to a non-judicial job be it directly or upon the request of the chief of court should the judge lose the justification to retain his jurisdictions. The law gives the president of each court the right for administrative supervision over his court, in addition to the right to judges after hearing them, be it personally or upon a decision rendered by the general assembly. The law gives the general assembly the right to supervise affiliated judges. The public prosecutor initiates disciplinary lawsuit, be it personally or upon the suggestion of the minister of justice or the chief of the court to which the judge is affiliated. In Morocco, the implementation of judicial disciplinary actions, all related procedures and sanctions fall upon the minister of justice. The minister of Justice is also requested to sign sanctions.

5- Freedom of expression and association

The freedom of expression and association gives the judiciary a basic guarantee for its independence and a means of pressure to promote it and to ask for their rights. The national reports showed that the judge in the concerned countries has the right to the freedom of expression, similarly to all citizens. However, the level of this freedom defers from one country to another. In Egypt and Morocco, a judge is required to acquire a prior consent to participate in forums or demonstrations.

The judges' right of association and affiliation to political or non-political groups is bound to many restrictions of varying degrees between one country and another. The national reports showed that a judge is prohibited to join the political domain and activities, alike all public sector employees. In Lebanon, Jordan and Morocco, despite the fact that the law did not expressly forbid judges from constituting syndicates or professional associations, judges do not practice their right for association. In Morocco, many judges relinquished their membership in different associations, such as the associations for the defence of human rights.

Egypt alone sets an example of success in the judges' right for association. It is the experience of the Club of Judges that was established in 1939 to "strengthen fraternity and solidarity among all judges, watch over their interests, facilitate meetings and acquaintance and institute a cooperative and saving fund for the judges' benefit".

This club was active in defending the judiciary, its independence, and the rights of its members but did not turn yet into a professional syndicate.

Second- Integrity and impartiality

1- Institutional integrity

Sound judiciary require institutional integrity which is embodied in clear and well defined ordinary and regulatory jurisdiction, well-defined and compulsory regulations to fight corruption, laws or code of ethics relative to the judicial profession.

As to courts jurisdictions, the national reports mentioned that courts' ordinary and regulatory jurisdiction is clearly and cautiously defined in the code of procedure which generally respects the rules and provisions of fair trial, taking into consideration some exceptions stated in these reports. The report on the Judiciary in



Lebanon pointed out to the secrecy of investigation procedures, which is subject to citizens' suspicions. It also noted that the private and specialized judiciary are not complying with the fair trial procedures due to the lack of transparency, as well as to the absence of hierarchical legal prosecution, publicness, non-observance of the procedures of notification and presence before the court, substantiation of verdicts, mainly within the military and State security courts, as well as confessional, sectarian, spiritual and quasi-judicial courts.

The Jordanian report mentioned that the Prime minister can transfer any of the crimes, cited in the article 6/B of the economic criminal law 1993, to the state security court according to his competences determined by the state security court law. This last law and his amendments nb. 2 of 2004 added in its article 11/3 that “the prime minister could also transfer any other crime related the economic security”.

In Morocco, the report also tackles the efficiency of specialized courts which do not cover the whole country and do not approach judges to litigants; the same applies to the lack in appeal courts. The Egyptian report pointed out to the complications and negative aspects that arise from the judicial dualism between administrative and civil judiciary, to the great number of exceptional courts and the repetitive resort to the same, which negatively influence the institutional integrity of the judiciary especially that these courts are presided by non-judges and are subjected to special procedures that are different from normal courts procedures which acknowledge many of the guarantees for transparent and fair trials.

As to special rules and regulations to fight corruption, the national reports on the Judiciary in Lebanon and Jordan highlighted the non-existence of laws and regulations governing judges who are subjected to the same texts that govern public servants. As for the Egyptian report, it mentioned the formation of the judicial investigation administration that would assume the task of implementing the legal texts that incriminate corruption.

As to the law for judicial ethics in the judicial profession, the reports showed the non existence of a law for judicial ethics in Lebanon, Morocco and Egypt except Jordan. However, they noted the existence of specific provisions and codes in this concern.

In Lebanon, there are provisions and codes such as the chart for judicial ethics adopted by the Lebanese judges in 2002 and the circulars and instructions issued by the Higher Judicial Council to dictate the judges' social and professional behaviour. Such is the case in Egypt where the judicial authority law included some provisions showing the judges' obligations as well as banned activities and behaviour. The long virtuous practice of the judges rooted these moral concepts. In Morocco, such rules are deduced from some legal provisions concerning the judges' status more particularly their bylaws. Nevertheless, they are not enforced or activated.

Finally, we note the recommendation issued by the Arab judicial investigation committees that convened in Beirut on February 2004 which recommended the establishment of an Arabic chart for judiciary ethics upon the request of the Lebanese Minister of Justice.

As for Jordan, the Jordanian Judicial Council promulgated on the 19th of December 2005 a code of judicial conduct and decided to adapted and generalized on all judges and prosecutors that should be fully abided and stick to according to its rules, norms and traditions, at the risk of disciplinary penalty. This code enclosed four divisions which are: Judicial independence, judicial Guarantees, judicial conduct, competence and ability.

2-Judges' integrity and impartiality



For judges' integrity and impartiality to take place, many conditions should be fulfilled, impartiality in decision-taking, respect of the principle of equality before the law, clear and mandatory laws for the non-conflict of interests, a compulsory and rotative declaration of income and properties, honest court procedures, in addition to the judges' personal conscious of the judicial task.

As to impartiality in decision-making, the Lebanese national report pointed out to the difficulties the judge encounters since he is supposed to stand at the same distance between parties of various religious, tribal and ethnic groups, especially that he belongs to one of them. The report gave a number of examples of impartiality. Impartiality in lawsuits is reached, according to the report, through fair trial principles respect, granting the right to defence and publicness, avoiding inappropriate sentences or verdicts, allowing lawyers to be present even during the investigation phases regarding penal lawsuit.

The Jordanian report noted that impartiality is guaranteed by the Islamic law (Shari'a) and the principle of equality. The Islamic law is an essential source of all legislations aiming at establishing justice on the basis of equality among competent parties. Commitment to equality is one of the judges' duties as stipulated in article 6 of the constitution where all Jordanians are equal before the law. In Morocco and Egypt, the legislator bound the judges to be committed to integrity and impartiality. There are to be punished in case of breach. However, the Egyptian national report stated elaborately cases impeding the judges' impartiality: judges are delegated to undertake legal or judicial actions, other than theirs, which affects their performance. Moreover, the procedures in appeal courts and the possibility of referring lawsuit before a court, other than the principally examining court, affect impartiality. The authority of the first instance court presidents, including supervision, orientation, and warning would affect the judges' behaviour and performance mainly because court's presidents abuse their power in such a way that it is not restricted to financial and administrative supervision, but sometimes influence the judge's personal beliefs.

As to rules for non-conflicting interests, the four national reports highlighted the presence of restriction, somewhat different from one country to another. In Lebanon, the concept of non-conflicting interests was consecrated in the code of civil procedures with reference to judges and arbitrators. The law allows referring the cases due to suspicion, giving the litigants and the judges the right to resort to relevant procedures. In Jordan, many legal texts guarantee the non-conflict of interests, but they differ in content according to the courts nature and degree, and differ among ordinary courts, religious courts, State security courts, military courts and spiritual courts. Generally, these rules are founded on the same bases, lead to suspicions when it comes to cognation or previous relationship with litigants. In Egypt, the law deals with the principle of non-conflict of interests under another title "the judges' relative non-jurisdiction" (the judges' response) mentioning some cases of rejection and relinquishment as well as the quarrels with judges meaning suing a civil liability lawsuit against a judge. In Morocco, the procedure law and judicial jurisdiction guarantee the principle of non-conflict of interest.

The national reports tackled the issue of rotative and compulsory declaration of income and property as it is a guarantee for judicial integrity and impartiality. In Lebanon, judges are to abide by the ACTIO DE IN REMVERSO (code of illegal enrichment). This text binds every judge of the third degree or any other equivalent or higher degree to submit, immediately after starting his judicial career, a declaration signed by him stating the movables and immovable that he, his wife and minor children own. It is noted that after presenting the said declaration, the judge is not bound by any rotative reports until he resigns. In Jordan, the Patrimonial Disclosure



Law number 54 of 2006, state in its article (2-A-1) that its policies are applicable on judges. In Morocco, the judicial basic system binds each judge to submit a declaration about income and properties, he, his spouse and minor children own. The minister of Justice assumes the continuous follow-up of the judge's wealth progress.

The last factor guarantying judicial integrity is **integrity in the court procedures**. The national reports stressed on fair trial principles the most important of which being the right of defence, the presumption of innocence, the public trial, the immediate settlement of lawsuits as well as the judicial control over the trial procedures, the means of challenging judgments and the possibility of access to legal information and judicial verdicts at no cost. The three reports ascertained that these concepts are stipulated in the laws of the concerned countries though sometimes submitted by the law to restrictions and exceptions, as to respect the nature of the litigation, personal interests and public order requirements. It is to be noted that the reports unanimously agreed upon the fact that these principles are not observed at a satisfactory level.

Third- Competence of the judiciary

For the judiciary to be competent there is a need for competent members- judges and judicial assistants- according to specific and objective criteria measuring judicial competence, objective criteria governing the selection of judges, objective and clear system of promotion, transfer and judicial sanctioning, in addition to an ongoing and adequate judicial training.

1- Adequate qualifications for judges and judicial assistants

Judges and judicial assistants should enjoy specific judicial qualifications as they should meet clear standards, adequate professional and educational qualifications, and moral standards for their profession.

As to judicial qualifications, the Lebanese law is clear in this concern and observes the same on the criminal, administrative and financial courts, at the exception of the military and religious court. But these qualifications are not extended to judicial assistants. In Jordan, laws do not provide for qualifications for the judicial position with regards to different courts, hence there is no specialisation. There is no hierarchical organization of the courts' employees or a specific frame for the required qualifications to fill in the post of judicial assistant.

As to scientific and professional qualifications, the Lebanese law distinguishes again between judicial, administrative and financial courts and between military and religious courts. The conditions to nominate a judge in judicial, administrative and financial courts are never the same as to those in a military court, namely in religious and spiritual courts. Educational qualifications of judicial assistants are generally modest, with large difference between experts and specialized judicial assistants' qualifications. In Jordan, the law stipulates that the Supreme Court president must have additional qualifications. The same goes for the president of the Supreme Court of Justice. It is up to the executive authority to evaluate these qualifications when appointing and others. The law also sets the conditions to be fulfilled by the religious courts' judges, mainly a religious academic certificate (university degree). The same goes about the qualifications of the military court judges who can be officers.

The national Lebanese report points out to the ethical norms rules relative to judges and to judicial assistants already mentioned in the legal texts. It confirms more specifically that the candidate to judiciary should be enjoying all his civil rights, non-condemned of misdemeanor or offense, exempted of illness or disease. According to the usages, inquiry is led in the surroundings about his conduct and behavior. Rules



and practices in Egypt are similar to those applied in Lebanon, mainly as regards the non-condemnation of candidate of any offense or misdemeanor affecting dignity and loyalty.

2- Objective standards for judges' selection

The existence of objective standards for the judges' selection is a guarantee of competence and one of the basic elements ensuring the judges' competence principle which supposes definite and objective norms of selection, a compulsory evaluation system, a non-discriminatory equal opportunities for appointment avoiding especially gender discrimination.

The four countries set objective standards for judges' selection consisting of scientific and moral qualifications stipulated in law. In Lebanon, scientific standards require papers that meet conditions of admission as legally prescribed. Personal conditions and qualifications are submitted to the examining committee discretion. Are selected trained judges, admitted in the judicial institute and had successfully achieved an up to three years period of study. To enter the Institute, they have to pass a written and oral exam. Judges may also be selected among lawyers or judicial assistants provided they present the entrance exam.

In Jordan, the candidate should enjoy many scientific qualifications set in the national reports. The appointment of highly-ranked judges depends on a personal standard related to the judicial council president appreciation, in the absence of definite means for the verification of competence, well-behavior and jurisdiction. Forth, fifth and sixth degree judges have, according to the law, to present an exam, under the supervision of a committee designated by the Judicial Council. In legal judiciary, the judge is appointed after successfully passing the exam, in case of first time appointment. In military judiciary, judges are bound to observe the exam regulations.

In Egypt, judges are appointed by virtue of the President of the Republic decision, according to the conditions and qualifications stipulated by law. This law didn't set as condition any exam or training at any institute before the appointment in the judicial corps. In Morocco, qualified persons are selected in two ways : through an entrance exam to the judicial institute considering the scientific, ethical and mental qualifications as well as the candidate foreign languages command, or through the direct selection of judges among university professors and lawyers by the Minister of Justice.

In the four countries, judiciary candidates are not subject to psychological test, in the scientific concept of the term, but laws stipulate the requirement of exemption of illness and disease.

Lebanon has a compulsory and definite assessment system consisting of the exam in addition to another non-compulsory personal interview of candidate with the examining committee. In Jordan, there is no compulsory assessment system of qualifications and experiences.

Men and women have legally equal opportunities of appointment in judiciary, given that laws in the concerned countries do not stipulate any gender discrimination in public jobs, including judiciary. Nevertheless, this discrimination is practically applied in legal judiciary in Lebanon and Jordan in presence of jurisprudence difference relative to the condition of appointing men in judicial posts.



In Egypt and Morocco, although no texts precise the judge gender, discrimination has prevailed for long till some changes which have been operated in Morocco at the beginning of the nineties. Women are appointed in low judicial mainly specialized posts. In Egypt, not one woman was appointed in judicial offices and public prosecution until January 2003, when the first woman was appointed as judge in the Supreme Constitutional Court. However, no other woman was appointed afterwards.

3- A clear an objective system for promotion and transfer

The system of promotion and transfer should be objective and clear to guarantee the judges' competence along with requirements of specific and objective criteria for promotion, transfer, rotative assessment of performance, in addition to gender balance and equality.

As for promotion and transfer criteria, no fixed criteria are set in Lebanon for the judges transfer from one court to another. Judges are subjected to a two years rotative transfer at the discretion of the Higher Judiciary Council, or the executive authority for some important posts. As for the promotion, it is governed by constant factors established in the judicial cadre showing the number of degrees, conditions of grading and compulsory promotion, and by other non-definite factors. Promotion to particular judiciary posts is not subject to definite criteria but to multiple interferences. In Jordan, the judiciary independence law prescribes rules governing the transfer. In Egypt, law pinpointed the conditions of transfer and the empowered authority to render the decision of transfer in each case, and put the judges of the public prosecution under the direct authority of the Minister of Justice. Promotion depends on the criteria of seniority and legal capacity, and a cadre was established therein.

Seniority is the basis on condition the concerned judge be competent and satisfying required qualifications, acquiring a certain degree, according to the technical inspection reports. In Morocco, the constitution guarantee for the adjudging judges, excluding the public prosecution judges, immunity against transfer, unless legally prescribed. Nevertheless, the law binds the judge to accept the post he is acceding to without practically applying the said constitutional guarantee.

The rotative assessment of performance occurs in Lebanon, Jordan and Egypt as judicial inspection. In Lebanon, it is assumed by the judicial inspection corps, according to the reports sent from different courts comprising a quantitative and qualitative assessment of performance. In Jordan, it occurs once a year at least, undertaken on judges by the judicial inspection directorate, except for the first instance judges. It deals with the judiciary different aspects of performance. In Egypt, the judicial inspection direction at the ministry of justice or this depending on the public prosecutor evaluate, within a period of two to three months, the work of the judge or the prosecution member, not being rotative for the judge. The inspection once occurring is restricted to the judges of the first instance courts or only their equal members of prosecution.

As for gender equality, there is no discrimination between women and men in Lebanon and Jordan as for promotion and transfer, contrary to Egypt and Morocco.



4- A Clear and objective judicial disciplinary system

Clear and objective judicial disciplinary system is one of the factors that guarantee the principle of judiciary competence. It supposes the existence of clear and transparent criteria for discipline, and the management of disciplinary procedures by the judicial authority itself.

The disciplinary criteria should be clear and objective through a system that determines violations and sanctions with the right of defense. In Lebanon and Jordan, the law regulated the subject of moving disciplinary actions against judges on stable rules starting from the determination of violations and ending up with the decided sanctions. In Lebanon, a disciplinary action is moved against a judge if he abstains from fulfilling job duties or commits an act against honor, dignity or morality. In Jordan, discipline contraventions are related to the judge's obligations stated in the regulations, the lawsuit procedures, the judiciary independence law, the courts formation and the code of ethics. They are similar to the reasons stipulated by the Lebanese law ranging from the warning and the blame to the maximum sanction of dismissal and revocation. Both Lebanese and Jordanian laws specified the rules adopted in disciplinary action granting to the judge the right to defense and challenge.

Disciplinary criteria should include definite and just sanctions that are truly applied. In Lebanon, the disciplinary system is integral and comprehensive stipulating adequate sanctions for infractions. However, the practice differs from the text because moving a disciplinary action is rare according to the national report. In Jordan, the disciplinary system does not precise the infraction and appropriate sanction. The inexistence of text prohibiting the imposition of more than one sanction for one infraction, prevent the estimation of just sanctions stipulated in the judiciary independence law, leading to discretion, inequality and favoritism.

The management of disciplinary procedures falls within the jurisdiction of the judicial authority according to both Jordanian and Lebanese national reports where disciplinary measures are undertaken by highly-ranked judges. This is not the case in Morocco where the Minister of Justice assumes this task, or in Egypt where the executive and judicial powers share the same. Returning to Lebanon, the judge is transferred to the disciplinary council by the judicial inspection corps composed of judges, and is prosecuted before the disciplinary council formed of the judge president of the chamber and the court of cassation, two judges presidents of chambers and court of appeal. The public prosecutor preside the judicial inspection corps. The disciplinary council jurisprudence encompasses all sorts of judges except for the religious courts judges, and all experts, judicial assistants, notaries public, and receivers. The Higher judicial council appoints each year the disciplinary council members. But in Jordan, the disciplinary council is composed of three judges members at the judicial council, designated by the judicial council, among who the president is nominated. The council jurisprudence covers all regular judges. The legal judges are brought to justice for disciplinary actions through the legal judiciary.

Concerning the training, an appropriate permanent judicial training should be afforded through continuous judicial specialized training programs initiated by specialized judicial institute. Lebanese, Moroccan and Egyptian national reports point out to the existence of judicial studies institutes for the future judges training before appointment. It seems that this training is not continuously observed in these institutions after the new judges' graduation and appointment, except for the



Moroccan judicial institute where the training is maintained after graduation at low speed. In Egypt, the national report makes sign to the national center for judicial studies which organizes training sessions for judges and for the prosecution members after and not before their appointment. Since 1995, it has started to hold sessions of basic formation for new judges. A large number of judges affiliated to different degree courts benefit from the training sessions of the institute in different sections of specialization.

As for the training and studying periods at the judiciary institutes, it varies from one country to another. In Lebanon for instance, it lasts three years, and is theoretical and practical. In the Jordanian institute, it is two years. Studies at the Moroccan institute are theoretical and the graduation is followed by a practical training at courts for a year. In Egypt, the national center for judicial studies aspires to become a specialized academy and is currently under development so that it encompasses three specialized institutes, one for judges, another for assistants and the third for experts.

Training should cover foreign languages teaching. In Lebanon, the judiciary candidate should master, in addition to the Arabic language, another English or French language. Lessons are given at the judiciary center in one of these languages. In Jordan, since 2002, judges and institute students are actively trained on French or English language at the judicial institute or other institutes. In Egypt, the national center of judicial studies insists on the French language teaching. In Morocco, there is an emphasis on strengthening foreign language teaching, and written translation and interpretation are introduced in the exams of the judiciary institute.

All reports mention training special resources. The Lebanese national report concluded that the judiciary institute benefit from external assistance aiming at its development and training organization. In Jordan, there are no sufficient resources because the institute budget is a part of the ministry of justice budget. The institute always complains from lack of resources.

Forth- Judiciary effectiveness

The judiciary efficiency is one of the most important principles of the duly qualified and right judiciary. This principle, to be adopted, should be accompanied by sub-elements mainly the existence of transparent, clear and effective procedural laws, trials management, transparent and objective achievement of judicial duties, appropriate duration for a definite and concluded verdict, in addition to the existence of a just and effective system for the execution of the verdicts.

1- Clear, transparent and effective procedural laws

To guarantee the judiciary efficiency, procedural laws i.e. rules of procedures should be transparent, clear and effective, meaning the need to have modern rules and regulations, clear and compulsory procedures to institute a lawsuit, an adequate human system for the courts, and clear rules for reviewing and challenging judicial decisions.

The Lebanese, Jordanian and Moroccan national reports show the existence of modern and clear procedural laws that are developed to match with the technology progress. Jordan is the ideal example in this field, where it promulgated decision n° 14 in 2001 which introduced many verdicts aiming at benefiting from the technological progress in civil action management as for the notification of judicial papers by



modern means, the use of computer, the organization of lawsuit procedures, proofs and challenges. The situation is almost the same in Morocco. In Lebanon, this trend is under study to benefit from the American assistance.

As for the lawsuit procedures, they should be clear and compulsory, according to national reports in the four countries noting the lack of firm judicial monitoring over these procedures leaving them, in most cases, to clerks and chief clerks. The situation in Morocco is similar to the situation in Lebanon, in addition to questions relative to the integrity and competence of the courts system and to weak productivity. In Jordan, courts officials are insufficient in the light of the increasing cases. Mechanization role in the support of the human system is essential to promote efficiency. This is the case in Jordan and Morocco which are trying, through modern technological means, to solve this lack.

Challengeability rules of judicial decisions should be clear. In spite of these rules existence in Lebanon, Jordan, Egypt and Morocco regular courts as afore-mentioned, some of the exceptional and special courts are submitted to particular rules in each of these countries. The judgments of some are decided only over one degree, such as the court of justice, the State Council, several exceptional courts in Egypt, groups and districts courts in Morocco, in addition to some judgments rendered by regular courts if the action fails from achieving quorum. This leads to unchallengeable verdicts in many cases, or even to ambiguity.

2- Trials management and administration of judicial procedures on the basis of clear and objective criteria

The trial administration and judicial procedures on the basis of clear and objective criteria is essential to ensure judiciary integrity. This supposes the existence of a system for the distribution of cases on the basis of clear, objective and just criteria. It also supposes cases distribution according to jurisdiction and to the availability of financial resources allotted to such issues.

The system of cases distribution should be based on clear, objective and just criteria such as it the case in the Lebanese code of civil procedure which showed the way of actions distribution regarding the type or venue of their competence or the case's quorum. It also showed actions distribution among the chambers of first instance and appeal courts, pursuant to a decision by the Minister of Justice, after the approval of the Higher Judicial Council upon the proposal of the court's first presiding judge, while actions of the chambers of the Court of cassation are distributed pursuant to a decision of this court's first presiding judge. The actions of the State Council are distributed among chambers in conformity with a decision by the Council's president, on the proposal of the Council Office.

In Jordan, there is no clear and transparent system about cases distribution. This explains the absence of objective criteria for the distribution leading sometimes to the transfer of a particular case to a judge upon the demand of defendants. In many situations, the court's president distributes cases to courts.

In Egypt, the distribution of work in all degrees of courts- is undertaken by the court's general assembly at the beginning of each judicial year. Usually, the court president prepares a draft for the distribution of cases before the beginning of each judicial year, submits it to the court judges, considers their preferences of work, and consults the inspection administration in order to establish a final project to be submitted before the general assembly of his court at the beginning of the judicial year. The project includes the number of divisions, different categories of cases, competences and



names of judges of each division. The general assembly usually agrees on this project. Moreover, the court president might be delegated to assume some jurisdictions of the general assembly, including the formation of divisions, distributing cases among them throughout the judicial year. This delegation is supposed to be applied in states of emergency like the absence or illness of a judge, or other reasons occurring in the course of the judicial year.

In Morocco, judiciary is characterized by the existence of specialized courts. The distribution of cases inside courts is linked to their structural formation which is based on the system of specialized chambers similar to those in Lebanon. This system is marked by the fact that it entrusts the total power in distributing files to two corps : the first is composed of judges of first instance courts, the second of judges of courts of appeal. Their duty is to perform, in general assembly, the distribution of cases among the chambers. The Higher Council cases distribution and affairs management are carried out by an office formed of the first president, the chambers presidents excluding other judges.

Concerning the distribution of cases according to jurisprudence, the criteria for distributing cases over any court's chambers are quite objective in Lebanon. They are stipulated in legal texts and they relate to jurisdiction. Breaching these criteria may cause the case to be returned to the other chamber. Within one court, jurisdiction is relative. Among Courts, jurisdiction is absolute absolute; contraventions lead to lawsuit dismissal.

In Jordan, there is no system of distribution according to jurisdiction. Judges examine all kinds of lawsuits.

In Egypt, the right to litigation is guaranteed in the constitution and all citizens have the right to resort to their "natural judge" (article 68). However, the constitution did not stipulate the jurisdiction of the regular judiciary to judicial jurisdiction i.e. to look into all kinds of cases and disputes; it rather stipulated the competence of the state council as an independent judicial organization to decide in administrative disputes and disciplinary actions. The law has given to regular courts a general competence to look into all disputes, yet it stipulated the principle of exceptions. In fact, the Egyptian legislator often implements this exceptions' principle through removing a number of disputes from time to time from the regular judicial competence and bringing them before specialized courts or extraordinary courts. The procedures law determined the rules of competence and categorization of actions in cases implying a jurisdiction of value, as well as they determined the territorial jurisdiction in cases where each court has a different competence according to its geographical location. The said law also described the different instances of disputes and their respective competent courts.

In Morocco, there is a double system which is based on public specific jurisdiction courts which are the courts of groups and districts, on one side, and the courts of public comprehensive jurisdiction which are the primary courts, on the other hand. In addition also to specialized courts.

As for financial resources reserved for procedures management and judicial affairs on the basis of clear and objective criteria, the Lebanese and Jordanian reports stated that the judiciary budget is a part of the ministry of justice budget. It is generally insufficient for modernization and development. Consequently, it is necessary to find independent budgets to guarantee sufficient financial resources.

3- Appropriate period for a definite concluded judgment.

The judiciary efficiency supposes quick settlement of lawsuit surely without affecting the verdicts quality. This requires the setting of a definite and reasonable time ceiling for procedures according to the lawsuit categorization, and disciplinary procedures in



case of procrastination in the action process by the court, whether by the judges or the lawyers.

The setting of a definite and reasonable time ceiling for the trial procedures is an important element to guarantee the non-lingering in the issuance of a definite concluded verdict. The national reports stated the non-existence of constitutional or legal texts or usages binding the court to set a time ceiling for procedures leading to the verdict pronouncement. However, different countries laws set procedures to hasten the settlement without rushing, such as in Jordan the unacceptable delay of lawsuit for a period of more than five years, or the setting of a time ceiling in some specific cases, such as the case in Morocco regarding commercial and familial lawsuits. In Lebanon and Egypt, delays are only prescribed by law to exchange pleadings, and are not binding to the court and the litigants, unless if the court deems well to activate it considering the defendant rights.

The disciplinary procedures in case of procrastination in the lawsuit process by the court or the lawyers may increase the judiciary efficiency. However, reports show the inexistence of such procedures in the four countries, only for complaints from judges and disciplinary measures undertaken by reason of unjustified procrastination. In the concerned countries laws, no article punishes or holds accountable procrastinating lawyers. The reports referred to the general texts regulating the law profession binding the lawyer to observe ethical code and integrity while executing his duties without any prejudice to the mandatory interests. The lawyer is held accountable according to these general texts in case of intentional behavior leading to procrastination.

In Egypt for instance, the national report mention that lawyers sometimes act arbitrarily while defending in actions, by bringing lawsuits in which they have no interest, just for the aim of drawing the attention of the public opinion, or by resorting to several ways to paralyze adjudication in the action of their clients, such as requesting the postponement for notification and re-notification, observation and preparation, or documents submission and consideration. Many stipulations in the procedures law try to limit the recourse to different ways of paralyzing justice; however, these texts remain inefficient as to preventing spiteful actions or putting an end to the litigants and lawyers tactics for delaying adjudication.

4- An efficient and just enforcement apparatus

The enforcement apparatus is an essential part of judiciary and should be characterized by justice and efficiency through the adoption of definite executive procedures, an institutional accountability system, and an efficient use of tools for the enforcement of verdicts through an appropriate enforcement apparatus.

As for the enforcement procedures, they should be defined such as it is the case in the four countries where the law sets specific rules for the judgments enforcement although some might be complex, as in Lebanon, for instance. It may reach a new lawsuit in addition to a large possibility of procrastination, financial obstacles representing the considerable fees and expenses for the enforcement. In Egypt, the situation is similar. The national report points out that the enforcement of final judgments issued for civil and commercial actions is not an easy task. Often, the defendant, after having used all challenge means, resorts to the execution problems for spiteful purposes, and for the only aim of paralyzing execution. Moreover, the huge number of final verdicts issued in misdemeanors and infractions burden the police verdicts execution units which undertake their work under the supervision of the public prosecution with heavy unbearable charges.



The existence of an institutional accountability system contributes to the compensation of any negligence in verdicts enforcement. In Lebanon, enforcement judges and assistants undergo the same judicial inspection, conduct sanctions and accountability. The same regarding judges' inspection and discipline applies on enforcement offices.

In Jordan, there is no definite accountability system at the enforcement offices. An official at the enforcement office executes this task. In Egypt, the enforcement units, formed of the police, are submitted to the supervision of the public prosecution. In Morocco, the monitoring of the work of the bodies and the departments in charge of enforcement before different courts, raises another significant problem. Until recently, monitoring was assigned to presidents of courts who were so occupied that they could not supervise sufficiently and efficiently the authorities of enforcement. They also could not interfere unless if a person complains before them. The legislator tried to avoid this situation by establishing the institution of the judge who is in charge of the enforcement procedures. Despite this positive development in the judicial enforcement system, its remains limited due to the lack of clear, explicit and accurate definition of the legal nature of the judge's tasks, competencies, links or differences with the powers of the president of the court.

The effective enforcement is an essential part of the verdicts enforcement apparatus regardless the authority against which the enforcement is achieved. Concerning the enforcement against persons of private law, it faces great difficulties relative to complex procedures, procrastination, non-conformity to delays. Nevertheless, enforcement ends up most of the times with success, when the executor is competent. The same goes for Jordan, Egypt and Morocco where the possibility of procrastination and objection may retard and slow down the enforcement for many years. In addition to this, there are special conditions in Morocco such as the complex enforcement in the insurance companies centralized in Casablanca and the necessity to resort to judicial discretions or to compulsory measures in case the executor abstained from enforcing them voluntarily.

Concerning the enforcement against persons of public law, it also faces much greater problems than against persons of the private law in the absence of special compulsory and coercive laws for enforcement, except for the law in Lebanon which stipulates a forcible fine on the procrastinating administration.

In Jordan, the demand of enforcement against persons of public law is submitted to the prime minister who orders the enforcement.

The existence of an appropriate enforcement apparatus helps to make the enforcement system fair and effective. The enforcement apparatus in Lebanon and Jordan is the apparatus of the enforcement offices composed of a judge president of office and assistants. In Jordan, the number of officials is insufficient. The enforcement offices have a lot of executive cases much greater than the number of available officials in each office. In Morocco, the enforcement apparatus is formed of two categories of employees : the enforcement assistants' body comprising courts' officials, and the independent judicial commissioners. The enforcement assistants' body, suffering from lack of man power and financial resources, is incapable to tackle thousands of enforcement requests.

And the body of independent judicial assistants, established specifically to face this problem, which was reorganized under the name of "judicial commissioners" became also inefficient by reason of insufficient number of assistants and their unavailability in all courts.



Chapter 3

The Recommendations

This chapter considers the recommendations stated in the national reports about the four principles set in chapter two of each report.

In addition to these recommendations, the Lebanese national report underlined that the reform experiences at judiciary were partial, in spite of the submission of some reform projects by politicians or legislators. The most important of partially executed or under execution projects was the promulgation of law n° 389 in 2001 amending the law of justice judiciary law n° 150/38 authorizing the election of two members of the Higher Judiciary Council among colleagues at the court of cassation. It also enforced the Higher Judiciary Council about the judicial appointments and permutations, by virtue of a decision taken at the majority of seven members in case of disaccord arising between the Council and the Minister of justice and other reform steps. There is also a project of reform and development relative to the Institute of judicial studies with the cooperation of the French judicial studies institute, as well as another project under execution to introduce machinery and computerize judiciary work in cooperation with the European Union. The Lebanese national report is characterized by the call addressed to civil society institutions, mainly the specialized institutions, to seek for the execution of awareness raising and educational plans. Promoting education means convoking specialists to permanent seminars held about judicial and legislative issues and urging bar associations to play an important role in developing judicial practice through periodic in-depth reports about justice palaces procedures to be submitted to the Higher Judicial Council being an on-site support for judicial inspection. Raising awareness means diffusing and consolidating public awareness about the importance of the rule of law in society beyond familial, regional and sectarian favoritism, prevailing its referential power, through the independent judiciary authority, in the public conscious and conducts.

The Jordanian national report reached a general conclusion added to its recommendations stating that “the professional reform of the judiciary requires necessarily that the reform plan be included in the comprehensive overview of the democratic state components which observe the state of law principle and draws its legitimacy, powers and effectiveness from the free will of people”.

The Egyptian national report concluded and recommended an interrelated series of opinions about general recommendations. After the review of the Egyptian status, the report noted general recommendations about the need to differentiate, when evaluating the Egyptian judiciary, between the judiciary as an institution and the judiciary as individuals.

The Moroccan national report showed that Morocco suffers from a “quasi-crisis” of structural aspects affecting the judicial institution relation with the state on one hand, and other aspects affecting the relation between citizen and judiciary in penal and civil trials. The said report built its recommendations on the basis of this diagnostic.



First: Judiciary Independence

The Lebanese National report recommends the following: (a) activate the constitutional text granting full power to judiciary similarly to the legislative and executive powers; (b) unify multi-subsidiary judiciary and limit exceptional courts restricting their jurisdictions, mainly military courts exclusively restricted to soldiers in time of war without any other jurisdiction over crimes having civil aspect whether between a soldier and a civilian or among soldiers. Moreover (c) promote the judiciary independence through many procedures set in the report.

The Jordanian national report submits 16 recommendations, among which : (a) include the Jordanian constitution rules that govern the legislator power in litigation regulation and judicial mandate distribution of courts; (b) introduce rules susceptible to unify the judicial authority; (c) reconsider the constitutional rules relative to the establishment of a special court to try ministers and reconstitute this jurisdiction back to regular courts, or special court dependent of the judicial authority; (d) establish the constitutional court that supervises the laws constitutionality; (e) reconsider the judicial regulation laws and render a special law for judiciary independence, and others.

The Egyptian national report indicates that the legislative system governing the judicial authority consolidates in general the executive power hegemony over the judiciary institution, enabling the executive power to use physical merits to influence judges through assignment, transfer and generous offers, awards and others. Accordingly, it recommends the amendment of legislations impeding institutional independence instead of modifying the constitution by the annulment of all exceptional judiciary aspects, till the amendment of the judicial power ensuring real independence from the executive power pursuant to the adopted international standards.

The Moroccan national report confirms in its recommendations the controversial link between the constitutional reform and the strengthening of the basis of a democratic society on one hand and the judiciary system reform on the other hand. It calls for (a) the judiciary independence consecration in the constitution expending immunity against transfer in the interest of public prosecution judges (b) the annulment of all forms and aspects of exceptional civil and criminal judicial procedure (c) the revision of the legal system to control and widen laws constitutionality (d) the affirmation that judiciary real and effective independence in the framework of separate powers requires the application of the United Nations principles and relevant international conventions.

Second: Integrity and impartiality

The Lebanese national report submits its recommendations to support integrity and impartiality. It called for the (a) issuance of a binding law for judicial integrity that determines violations and stipulates sanctions; (b) amendment of the judicial authority law to oblige the judge to submit a declaration about his properties, personal and familial fortune at his affiliation to judicial corps, a periodic declaration about properties and allow the inspection corps to lift bank secrecy; (c) organization of educational sessions for the judges raising conscious about the importance and the seriousness of the judicial mission; (d) activation of the monitoring and supervision



system on the judge work guaranteeing the serial control; and (e) elaboration of a modern, developed and effective system that gives low-cost and spare-time access to judicial information and provisions.

The Jordanian national report presents recommendations as for (a) the annulment of the Prime Minister prerogatives provided in the State security court law; (b) the introduction in the Jordanian constitution of the rules that guarantee penal legitimacy; (c) the revision of legislations as regards the non-conflict of interests, (d) the introduction in the judiciary authority independence law and any law stipulating the regulation of the judicial work on rules binding judges to proclaim periodic financial liability at the appointment, (e) the revision of all legislations relative to litigation procedures to guarantee the challengeability of all verdicts before the court of cassation regardless the court that pronounced the verdict, and (f) the revision of the Higher Court of Justice and the creation of administrative courts assuming the charge of judicial management the verdicts of which are challengeable before the Higher Court of Justice.

The Egyptian national report points out that the law in Egypt represents guarantees for judges integrity and impartiality on both institutional and individual levels, in addition to the principles of the procedural system ensuring integrity and impartiality. However, it considers that structural changes in the Egyptian economy and social mutations in the last three decades may have left negative impact on some judges.

The Moroccan national report submits its recommendations and requires (a) support of transparency in trials and strengthen judicial creativity (b) draft an ethics code for judges (c) bind the judges to submit declaration about their properties and those of their spouses and minor children at the end of service under a penalty for non declaration of original, modified or definite assets, (d) acknowledge the principle of the state direct responsibility of defective process of justice and judicial faults, in addition to the principle the judges and the justice sector officials personal responsibility, (e) review the system of the judicial assistance providing access to judiciary and ensuring a sufficient protection for convicted and necessitous rights, (f) raise awareness and activate it among citizens about the legal guarantees stipulated in their favor as litigants to avoid conflict of interests with judges and (g) enable citizens and civil society organizations to have access to legal information (more particularly legal texts and jurisprudence) at the cost price and at no cost for the judges.

Third: Judiciary Competence

The Lebanese national report tackles the principle of judges' competence recommending: (a) the confirmation of judges' equal selection (for all sorts of courts with no exception, including military and special courts) among those scientifically qualified and competent, (b) the promotion of the judges' selection standards, (c) the development of training programs encompassing modern techniques, comparative legal regulations, modern judicial culture, (d) the requirement of specialization, the adoption of permanent training programs for all degrees judges, the insistence on foreign languages master, (e) the establishment of specific norms for promotion not only for degrees as it is the case presently, but also for posts to avoid nepotism, (f) the insistence on disciplinary measures and accountability far from favoritism and compliance.



The Jordanian national report recorded 12 recommendations, mainly (a) reconsider legal rules governing appointment in judicial duties introducing to them specific transparent and objective norms (b) annul the article in the code of independence judiciary relative to the appointment of the court of cassation president and reconstitute to the Judicial Council the powers of appointment and service duration expiry (c) reconsider the code of judiciary independence as regards the rules governing the regular courts judges appointment through the introduction of a condition imposing on candidates to judicial functions at all levels, to pass a general competitive exam and other conditions.

The Egyptian national report treats the principles clarifying that clear and strict standards are set to measure the judges competence, promotion and disciplinary measures, but still affected by the executive power interference. Moreover, the judges training system needs to be developed.

The Moroccan national report stated 8 recommendations more particularly : (a) review the Higher judges' Institute regulations with the view to guarantee its independence from the central administration and the minister of justice hegemony (b) confirm the organic link between the level and competence of the judiciary attaché and the judge, from one side and the actual system of study and education at university on the other hand, and others.

4- Judiciary Efficiency

The Lebanese national report enumerates its recommendations relative to the increasing of judiciary efficiency requiring : (a) the modernization of the codes of procedures (b) the compulsory obligation of judges and lawyers to abide by fixed delays for deliberations, and the amendment of codes of procedures to shorten process and executive formalities duration and limit malicious lawsuits aiming at procrastination (c) the submission of the judicial file to the responsibility of the judge, starting from the institution of the action, binding him to time limit for settlement, (d) the permanent rehabilitation of the courts officials and the judicial assistants through annual training sessions.

The Jordanian national report presents 11 recommendations, mainly : (a) generalize the system of the lawsuit management and mediation and apply it in all courts of first instance, (b) reconsider some laws, (c) study states experience in developing penal justice, introduce substitute solutions to settle penal disputes, (d) reconsider the code of criminal procedure, adopt the investigating judge system, and restrict the public prosecution power to accusation, and other recommendations.

The Egyptian national report points out to the great challenge that faces the Egyptian judiciary seeking to the promotion of its efficiency among a large number of cases at all levels and sorts of courts and the accumulation of cases. Thus many procedural rights are surpassed, such as the right to defense and innocence in penal cases. It also notes the need of verdicts execution system to development and modernization.



The Moroccan national report presents the recommendations relative to the judiciary efficiency to cite : (a) review the Code of civil procedure, (b) review the legal system for the compulsory execution of verdicts, (c) organize and strengthen the executive judge institution, (d) stipulate expressly definite reasonable time limit to adjudge cases submitted to courts, (e) employ more qualifying frameworks to assist judiciary more particularly in drafting reports, (f) promote and strengthen the role of general assemblies in all sorts and levels of courts, especially in the field of case distribution to judges and chambers, (g) support education and specialization in administrative and financial management of judiciary special facilities.