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Breaking the curse of corruption in Lebanon

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Summary

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- Lebanon is undergoing an unprecedented socio-economic crisis, due to the actions of the political class that has governed the country since the end of the civil war in the early 1990s. Throughout the years, under the governance of leaders made up of former warlords and wealthy businessmen, public funds were frequently plundered and the Lebanese state was used as a vehicle for extensive self-enrichment and patronage-distribution. This corruption, coupled with an absence of transparency and accountability, paved the way for the current collapse of the Lebanese state.
 - Signs of the state’s collapse began to emerge in the last few years, prompting the Lebanese government to solicit funds from the international community, which agreed to provide loans and grants under strict conditions – namely, the passing of structural reforms and anti-corruption measures to improve governance.
 - Against the backdrop of an unprecedented countrywide uprising, in recent years Lebanon’s political elites have enacted several anti-corruption laws and the National Anti-Corruption Strategy in an attempt to boost the country’s image on the international stage and to improve their own standing among their constituents.
 - These laws and this strategy, while commendable in theory, are unlikely to be effectively implemented. In short, one cannot expect a political class on whose watch corruption has proliferated – and which is responsible for the country’s current crisis – to appropriately implement anti-corruption measures and laws, and thus hold itself to account.
 - There are concerns that some of the anti-corruption laws – notably the 2020 Law on Illicit Enrichment – are being used to settle scores between members of the political class and garner praise among their constituents rather than out of a desire to reduce corruption.
 - However, with the ongoing collapse of the Lebanese state, as well as the attachment of stringent conditions on obtaining even the smallest amount of international assistance, momentum towards ushering in anti-corruption measures has been growing, particularly following the uprising that erupted in October 2019. Lebanon’s civil society has a chance to build on this momentum and exert pressure, domestically and internationally, to demand genuine anti-corruption measures and long-overdue accountability.

01

Introduction

In recent years, anti-corruption discourse has become prevalent in Lebanon. While several anti-corruption laws and a strategy have been passed, they are unlikely to be effectively implemented due to the systemic nature of corruption.

[Lebanese] expatriates came to me... they had money and they wanted to invest in Lebanese industry... this was in 1993, 1994 and 1995 [...] one of them wanted to build a factory for oranges [...] he explained to me how they would use oranges to create valuable products such as creams and so on [...] the investor needed a permit. At every stage of the process, he had to pay a bribe. After all the bribes he paid, he reached the endpoint and was told, "There is one more thing you need to do". He asked, "What?" [...] "[S]ome people [...] want shares in your factory, 51 per cent of shares". The expatriate investor packed his bags and left.¹

The incident described in this anecdote by a former member of the Lebanese parliament is not unique. For generations, countless similar stories on how corruption has festered in Lebanon have unfolded across a wide array of contexts, with corrupt acts ranging from the petty – such as bribing low-ranking public officials to speed up governmental procedures – to the grave, such as fund embezzlement by some senior government officials, often carrying out their duties under the ultimate protection of Lebanon's sectarian warlords-turned-politicians. After the end of the civil war in the early 1990s, these former warlords came to dominate public bodies, which were often used for self-enrichment and to distribute patronage among constituents in a clientelistic manner.²

This research paper raises concerns that Lebanon's anti-corruption initiatives, culminating in the recent adoption of the National Anti-Corruption Strategy, are destined to be ineffective. The Lebanese political elite unveiled these initiatives to the international community – as well as the Lebanese electorate, following

¹ Interview with Najah Wakim (translated by the author), former member of parliament, on the political talk show *Al Hadath*, Al Jadeed TV, 26 July 2020, <https://www.youtube.com/watch?v=SQgC5yfpJ5o>.

² Adwan, C. (2005), 'Corruption in Reconstruction: the Cost of National Consensus in Post-War Lebanon', in Large, D. (ed.) (2005), *Corruption in Post War Reconstruction: Confronting the Vicious Cycle*, Beirut: Lebanese Transparency Association.

the uprising of late 2019 and early 2020 – in order to rehabilitate their tarnished image, and in some cases to acquire much-needed international funding. While the strategy and the new laws may look commendable on paper, they are likely to be poorly implemented. In relation to specific anti-corruption laws and the new National Anti-Corruption Strategy, this paper highlights the reasons for this: a lack of political will among Lebanon’s ruling elites to engage in transparency; the absence of an independent judiciary; the use of state resources to benefit the private interests of the elites; the use of bureaucracy to make laws unimplementable; and the fact that the ruling elites are the custodians of the country’s broad anti-corruption strategy. No genuine widespread political will to stamp out corruption can exist when the political class’s governance is responsible for systemic corruption. The political elites are not going to hold themselves accountable for the socio-economic and political morass Lebanon finds itself, a predicament they are largely responsible for.

02

The context of corruption in Lebanon

Following the end of the civil war, the Lebanese state was turned into a vehicle for self-enrichment by the political class, while the state's oversight bodies were weakened and left underfunded.

Transparency International's definition of corruption as 'the abuse of entrusted power for private gain'³ addresses behaviours in both the public and the private sectors, encompassing 'politicians misusing public money or granting public jobs or contracts to their sponsors, friends and families', and bureaucrats and inspectors in the public sector 'demanding or taking money or favours in exchange for services', as well as private firms 'bribing officials to get lucrative deals'.⁴

The literature on corruption often distinguishes between 'petty' corruption (such as small bribes paid by citizens to low-level officials to streamline bureaucratic procedures) and 'grand' corruption (such as the abuse by senior public officials of their office and powers to use large amounts of public funds for their self-enrichment or for the enrichment of their cronies in an unlawful manner).⁵ In countries with high levels of both petty and grand corruption, public institutions become vehicles for self-enrichment, as a corrupt coterie of political elites and their allies in the private sector embezzle public funds – or funds, provided by aid

³ Transparency International (n.d.), 'What is Corruption?', <https://www.transparency.org/en/what-is-corruption>.

⁴ Ibid.

⁵ Fisman, R. and Golden, M. (2017), *Corruption: What Everyone Needs to Know*, New York and Oxford: Oxford University Press.

agencies, that are destined for socio-economic development.⁶ In 2004, in his foreword to the United Nations Convention Against Corruption (UNCAC), the then UN Secretary-General Kofi Annan aptly described corruption as ‘an insidious plague that has a wide range of corrosive effects on societies’ and which ‘undermines democracy and the rule of law, leads to violations of human rights, distorts markets, erodes the quality of life and allows organized crime, terrorism and other threats to human security to flourish’.⁷ The UNCAC is a legally binding multilateral treaty that cements the international community’s ostensible wishes to stamp out corruption, and provides a roadmap for countries to prevent and combat corruption more effectively. Originally drafted in late 2003, the UNCAC had been signed and ratified by 187 countries by February 2020.⁸

The ‘power-sharing’ system has resulted in a symbiosis of the sectarian political elites and their private sector allies in a way that has rendered the state a parasitic vehicle for self-enrichment and strengthened various sectarian clientelistic networks.

In Lebanon, widespread instances of both petty and grand forms of corruption have continued to exist at all levels of the state, despite the fact that Lebanon ratified the UNCAC in 2009.⁹ Lebanon’s sectarian political system is, by its nature, conducive to widespread corruption. The ‘power-sharing’ system that is in place is ostensibly meant to ensure that each of Lebanon’s sectarian communities is properly represented in the public sector. However, in practice and in the long term, this system has resulted in a symbiosis of the sectarian political elites and their private sector allies in a way that has rendered the state a parasitic vehicle for self-enrichment and strengthened various sectarian clientelistic networks. A 2018 article by the Lebanese Center for Policy Studies asserted that parliament spends little time proposing, debating, revising and passing laws, while lawmakers barely monitor the executive branch’s performance and almost never hold it to account.¹⁰ Meetings of parliamentary committees are held behind closed doors, and minutes are not made available to the public.¹¹ According to the Netherlands Institute of International Relations, Lebanon’s different security organizations have frequently served to protect elite interests.¹² The judicial branch, on the other hand, was designed to be subservient to the executive and legislative branches, thus

⁶ Rotberg, R. (2017), *The Corruption Cure: How Citizens and Leaders can Combat Graft*, Princeton, NJ: Princeton University Press.

⁷ UNODC (2004), *United Nations Convention Against Corruption [UNCAC]*, New York: United Nations Office on Drugs and Crime, https://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf.

⁸ UNODC (2020), ‘Signature and Ratification Status’, <https://www.unodc.org/unodc/en/corruption/ratification-status.html> (accessed 21 Nov. 2020).

⁹ *Ibid.*

¹⁰ Atallah, S. (2018), ‘Lebanese MPs: Little Time to Legislate and Hold Government Accountable’, Lebanese Center for Policy Studies, April 2018, <https://lcps-lebanon.org/featuredArticle.php?id=147>.

¹¹ Saghieh, N. and Karameh, L. (2013), ‘Majlis Al Nuwwab: Dawr mafsal fi i’dad al muwazana wa tawjih al siyasat al ‘amma’ [‘The Parliament: Key Role in Preparing the Budget and Steering Public Policies’], Lebanese Center for Policy studies, December 2013, <https://www.lcps-lebanon.org/publications/1395303401-pb5.pdf>.

¹² Van Veen, E. (2015), ‘Elites, power and security: How the organization of security in Lebanon serves elite interests’, The Hague: Clingendael – Netherlands Institute of International Relations, https://www.clingendael.org/sites/default/files/pdfs/Elites_power_security_in_Lebanon_2015.pdf.

debilitating judges’ ability to hold corrupt officials to account.¹³ The government’s oversight and disciplinary authorities are severely underfunded and understaffed – or, as is often the case, are staffed at the behest of the political elites – and hence are often judged to be incapable of properly carrying out their work.¹⁴ Table 1, which summarizes data on penalties (such as dismissals, suspensions or demotions) imposed between 2012 and 2015 on public officials of different ranks, suggests that such monitoring agencies focus their disciplinary efforts on public officials in the lowest ranks (i.e. in the third to fifth ranks, which include public school teachers, municipal police, secretaries and so on) while largely passing over high-level public officials in the first two ranks.

Table 1. Number of penalties imposed on public officials by the Central Inspection Board from 2012 to 2015

Rank of public official	2012	2013	2014	2015
First rank	0	0	3	0
Second rank	1	1	4	0
Third rank	24	24	23	0
Fourth rank	48	39	51	5
Fifth rank	4	8	3	0

Source: Office of the Minister of State for Administrative Reform (2020), *National Anti-Corruption Strategy 2020–2025*, Annex 4, p. 124, <https://www.omsar.gov.lb/getattachment/Anti-Corruption/National-Anti-Corruption-Strategy/strategy.pdf?lang=ar-LB>.

Nasser Saidi, a former minister of economy and trade and vice-governor of the Banque du Liban (the central bank), described Lebanon as a ‘rare combination of an experienced kleptocracy and a kakistocracy’¹⁵ – a political system that has not only been ruled by a corrupted political elite, many of whom have used public funds as their personal purse, but which has also ensured that a significant number of incompetent and unqualified individuals have been entrusted with the management of governmental affairs.

With decades of widespread corruption having rendered the public sector dysfunctional, and with steadily declining living standards, the national uprising that broke out on 17 October 2019 was not unexpected. At the time, the value of the national currency, the Lebanese pound (or lira), which has long been pegged to the US dollar, had begun to crumble. More than a year and a half later, Lebanon is facing an unprecedented economic and financial collapse. A World Bank report, *The Deliberate Depression*, released in late 2020, presents stark findings.

¹³ International Commission of Jurists (2017), ‘The Career of Judges in Lebanon in Light of International Standards: A Briefing Paper’, Geneva: International Commission of Jurists, <https://www.icj.org/wp-content/uploads/2017/03/Lebanon-Memo-re-judges-Advocacy-Analysis-Brief-2017-ENG.pdf>.

¹⁴ Adwan (2005), ‘Corruption in Reconstruction: the Cost of National Consensus in Post-War Lebanon’.

¹⁵ Saidi, N. (@Nasser_Saidi) (2020), ‘To be exact #Lebanon is that rare combination of an experienced #Kleptocracy and a #Kakistocracy that achieved the greatest Trumpian #Ponzi scheme in history (excuse the multiple hashtags but we seem to be making history!) @loubnanounal’, tweet, 16 May 2020, https://twitter.com/Nasser_Saidi.

It describes Lebanon as being ‘in the midst of three mega-crises’¹⁶ (the economic crisis, the COVID-19 pandemic and the aftermath of the massive explosion at the Port of Beirut on 4 August 2020), the country’s GDP was projected to contract by 19.2 per cent in 2020 in real terms, which would ‘undoubtedly result in substantial increase in poverty rates affecting all groups of population’.¹⁷ The report even bluntly states that ‘elite capture behind the veil of confessionalism and confessional governance’ is at the root of the economic crisis Lebanon faces, and that this capture has both led to policy inaction and limited ability to implement long-term developmental policies.¹⁸

Despite this grim outlook, the Lebanese parliament has introduced some counter-corruption measures in recent years, namely the passing of several anti-corruption-related laws, and in May 2020 the government adopted the National Anti-Corruption Strategy. However, such developments have occurred in a specific context: Lebanon’s political establishment is under significant pressure from an angry population calling for urgent change and the international community, which has made it clear that funding for Lebanon is contingent upon the implementation of genuine structural reforms in the public sector and the proper application of anti-corruption laws. This paper will go on to discuss the context of the implementation of specific anti-corruption laws, as well as the challenges faced in implementing them.

¹⁶ Harake, W., Jamali, I. and Abou Hamde, N. (2020), *Lebanon Economic Monitor: The Deliberate Depression (English)*, World Bank, 1 November 2020, p. 27, <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/474551606779642981/lebanon-economic-monitor-the-deliberate-depression>.

¹⁷ *Ibid.*, p. x.

¹⁸ *Ibid.*, p. 28.

03

A history of corruption and poor governance

While corruption may have reached new heights in the post-civil war era, the phenomenon is not new in Lebanon. Despite attempts at administrative reform since the 1960s, corruption and poor governance remain hallmarks of the Lebanese state.

While the Lebanon of the pre-war era is often remembered as an idyllic haven of free enterprise and commerce, the reality was far from rosy. Despite a dearth of data, it is estimated that in 1961 half of the country's population was living on incomes below the poverty line.¹⁹ The government of the country's first post-independence president, Bechara El Khoury (1943–52), was characterized by nepotism, poor governance and a high degree of administrative corruption. El Khoury's administration was accused of recruiting cronies into the public sector, allowing familial ties and sectarian loyalty to prevail.²⁰ His successor, Camille Chamoun (1952–58), hardly fared any better: both presidents were supported by the country's important business elites, oligarchs and banking sector, all of which favoured minimal state intervention in the economy, while not necessarily seeing a corrupt public sector as a problem to be solved.²¹

Chamoun's successor as president, Fuad Chehab (1958–64) had a fundamentally different view regarding the role of the state. Chehab and his administration,

¹⁹ Bou Khater, L. (2020), 'Poverty Targeting is not the Solution for Much Needed Social Policy', Lebanese Center for Policy Studies, March 2020, http://lcps-lebanon.org/featuredArticle.php?id=280#_ftnref1.

²⁰ Salibi, K. (1966), 'Lebanon under Fuad Chehab 1958–1964', *Middle Eastern Studies*, 2(3): pp. 211–26.

²¹ Ibid.

dubbed the ‘Chehabists’, tried to introduce genuine administrative reform, root out corruption, and formulate policies to bring about socio-economic development (see Annex, Box 1). However, these efforts were ultimately overturned by Chehab’s successors, and by the time the civil war erupted in 1975, few of Chehab’s attempts at reform had borne fruit.

The civil war in Lebanon led to dramatic socio-economic and political transformations. By the end of the war, in the early 1990s, the country’s infrastructure was badly damaged, disrupting the work of countless public servants and leaving several key ministries and offices inoperative.²² When sectarian warlords shed their military fatigues for suits and became ministers and parliamentarians, corruption proliferated through much of the public sector, with the warlords-turned-politicians, their cronies in the private sector and their Syrian partners plundering public coffers to sustain their own interests. The public sector lacked trained personnel and proper managerial supervision,²³ and despite the establishment in 1993 of an Office of the Minister of State for Administrative Reform (OMSAR), tasked with capacity-development and improvement in the Lebanese public sector (see Annex, Box 2), the Lebanese state has remained poorly managed, dysfunctional, and rife with corruption, where transparency is the exception rather than the norm.

In 2018, 91 per cent of Lebanese citizens believed that corruption was prevalent in the public sector to a medium or large extent.

While corruption is difficult to measure due to its nebulous nature, studies have relied on measuring the perception of corruption as a useful indicator. The Arab Barometer research network’s 2019 Lebanon Country Report reveals that in 2018, 91 per cent of Lebanese citizens believed that corruption was prevalent in the public sector to a medium or large extent;²⁴ a bribe in order to receive better public health services was perceived as necessary by 41 per cent and as highly necessary by 26 per cent;²⁵ and a bribe in order to access better public education services was perceived as necessary or highly necessary by 63 per cent.²⁶

Transparency International’s Corruption Perceptions Index (CPI) ranks countries globally based on the perceived prevalence of corruption in the public sector. Scores close to zero indicate a high perception of prevalence of corruption.²⁷ Since the CPI methodology was revised in 2012, Lebanon’s score and ranking have consistently been among the lowest in the world. Table 2 presents Lebanon’s CPI scores and rankings from 2012 to 2020; in the latter year, the country’s CPI score slipped by three points, causing its ranking to fall from 137th (out of 180) in 2019 to 149th out of 179 in 2020.

²² El-Zein, F. and Sims, H. (2004), ‘Reforming war’s administrative rubble in Lebanon’, *Public Administration and Development*, 24(4): pp. 279–88, doi:10.1002/pad.327.

²³ Ibid.

²⁴ Arab Barometer (2019), *Arab Barometer V: Lebanon Country Report*, p. 7, <https://www.arabbarometer.org/wp-content/uploads/lebanon-report-Public-Opinion-2019.pdf>.

²⁵ Ibid., p. 8.

²⁶ Ibid.

²⁷ For more information regarding the methodology used by Transparency International in calculating the CPI, refer to: https://images.transparencycdn.org/images/2019_CPI_SourceDescription_EN-converted-merged.pdf.

Table 2. Lebanon’s CPI scores and rankings, 2012–20

Year	CPI score	CPI ranking
2012	30	128
2013	28	127
2014	27	136
2015	28	123
2016	28	136
2017	28	143
2018	28	138
2019	28	137
2020	25	149

Source: Lebanon’s CPI scores and rankings since 2003 can be obtained from the CPI homepage at: Transparency International (n.d.), ‘Corruption perceptions index’, <https://www.transparency.org/en/cpi/2020/index>.

A third resource, the Open Budget Survey, is an international tool for obtaining national assessments (verified by an anonymous expert in each country) of the accessibility and transparency of a country’s public finances (recorded as Transparency in Table 3, below); citizens’ input regarding the spending of public funds (Public participation); and the legislative branch’s auditing of the government’s budget and public funds spending (Budget oversight).²⁸ Lebanon’s scores in the 2017 and 2019 Open Budget Surveys, detailed below, reveal the non-transparency of the Lebanese state and the lack of citizen access to data relating to how public funds are spent.

Table 3. Lebanon’s scores and ranking on the Open Budget Survey 2017 and 2019

Year	Transparency	Public participation	Budget oversight	Ranking
2017	3 out of 100	0 out of 100	11 out of 100	105 out of 115 countries
2019	6 out of 100	0 out of 100	18 out of 100	108 out of 117 countries

Source: International Budget Partnership (2017), ‘Open Budget Survey 2017: Lebanon’, <https://www.internationalbudget.org/wp-content/uploads/lebanon-open-budget-survey-2017-summary-english.pdf>; International Budget Partnership (2019), ‘Open Budget Survey 2019: Lebanon’, <https://www.internationalbudget.org/sites/default/files/country-surveys-pdfs/2019/open-budget-survey-lebanon-2019-en.pdf>.

²⁸ The methodology used by the International Budget Partnership to calculate the Open Budget Survey is available at: https://www.internationalbudget.org/sites/default/files/2020-04/2019_Methodology_EN.pdf.

The post-war era took corruption – already rampant – to dramatic new heights. Boxes 3, 4 and 5 in the Annex summarize several hallmarks of corruption in post-war Lebanon. Box 3 details the seemingly intentional mismanagement of the Port of Beirut, whereby since the early 1990s, one of the key lifelines of the Lebanese economy was run with little to no effective oversight from the government’s monitoring agencies, and with much opacity regarding how revenues were handled, paving the way for all kinds of corruption and criminal acts to take place within the port. Box 4 presents two non-exhaustive case studies of public bodies used by members of the country’s political elites for their self-enrichment: the Council for Development and Reconstruction – where concerns were raised as early as the 1990s that lucrative reconstruction and infrastructural development contracts had been given to politically connected firms, with little transparency or competition in the bidding processes – and the Central Fund for the Displaced, widely perceived to have been used less for supporting the civil war’s displaced and more for providing patronage and purchasing votes during elections. Finally, Box 5 presents an overview of the chronic corruption that has plagued Lebanon’s electricity sector, highlighting how, over a prolonged period, Lebanon’s political elites have managed the state-owned electricity utility in such a way that they and their cronies are seen as frequently having profited from the sector at the expense of the population’s enjoyment of an uninterrupted power supply.

04 Combating corruption: Tools and barriers

Anti-corruption reforms appear to have been passed to appeal for international aid rather than to combat corruption. As long as power continues to reside with the same political elites, the implementation of anti-corruption reforms remains uncertain.

The anti-corruption laws recently passed by the Lebanese legislature and the introduction of the National Anti-Corruption Strategy have generated much praise. While they may appear to indicate a commitment to combating corruption, it is likely that they will remain poorly implemented. The context of their adoption is a reminder of prior attempts by Lebanon to engage in reform in exchange for foreign aid.

On three separate occasions during the 2000s, international conferences were held in Paris with the purpose of obtaining pledges of funding for Lebanon from international donors. Each of these conferences (Paris I in 2001, Paris II in 2002 and Paris III in 2007) was accompanied by legislative actions on the part of the Lebanese government: these were ostensibly aimed at encouraging investment in the country, but were in the event largely cosmetic. Similarly, in 2018, the Lebanese government committed to carrying out structural reforms in order to ‘unlock’ soft loans and grants pledged by the international community as part of the CEDRE Conference.²⁹ Yet such reforms were not implemented, and as the country progressed further towards economic collapse, the government

²⁹ Government of France (2018), ‘Joint Statement on CEDRE – Conférence économique pour le développement, par les réformes et avec les entreprises/Economic Conference for Development through Reforms with the Private Sector, Paris, April 6th 2018’, https://www.diplomatie.gouv.fr/IMG/pdf/cedre_statement-en_final_ang_cle8179fb.pdf.

sought assistance from the International Monetary Fund (IMF). In the ensuing negotiations, the IMF also insisted that any assistance agreement would be tied to the implementation of structural reforms and anti-corruption measures, such as ‘comprehensive audits of key institutions, including the central bank’.³⁰

Given this context, there are indications that as long as power continues to rest with the same political elites who are responsible for decades of corruption and collapse in Lebanon, there will be a lack of political will to implement the newly enacted anti-corruption laws and the National Anti-Corruption Strategy in their entirety.

The following sections highlight the main barriers to the implementation in Lebanon of anti-corruption legislation and of the overarching National Anti-Corruption Strategy, with reference to specific laws that illustrate the different challenges.

No political will for transparency

A major barrier to reform and good governance in Lebanon is the lack of political will among the highest echelons of power. Senior public officials have long paid lip service to reform, and have even passed laws, ostensibly to turn rhetoric into action, but with little actual impact. This is seen most vividly in the trajectory of the formulation and implementation of legislation on access to information (ATI) in Lebanon, where lack of political will and an absence of transparency have led to inadequate compliance with the law.

Allowing citizens to access information from the public sector is key to stamping out corruption and establishing trust between citizens and their government. Such access allows a population to hold public officials accountable, and acts as a deterrent to officials tempted to engage in both the petty and grand forms of corruption.³¹ Democratic countries usually have transparent budgets and built-in mechanisms that allow citizens to obtain information and track down governmental expenditures – a process that can often be carried out online, through governmental digital portals.

Article 10 of the UNCAC states that governments must adopt procedures that make it easy for the public to access information related to the decision-making processes and the organizational and functioning structures of the public sector. Article 13 states that while civil society must be engaged in the fight against corruption, governmental authorities must ensure ‘that the public has effective access to information’ and must ‘respec[t], promot[e] and protec[t] the freedom to seek, receive, publish and disseminate information concerning corruption’.³²

³⁰ International Monetary Fund (2020), ‘Statement by IMF Managing Director Kristalina Georgieva on the International Conference on Support to Beirut and the Lebanese People’, 9 August 2020, <https://www.imf.org/en/News/Articles/2020/08/09/pr20278-statement-by-imf-md-kristalina-georgieva-int-conference-support-beirut-lebanese-people>.

³¹ Sekkat, K. (2018), *Is Corruption Curable?*, Brussels: University of Brussels.

³² UNODC (2004), *UNCAC*, pp. 13–16.

In April 2008, a group of Lebanese civil society organizations (CSOs) came together to establish the National Network for the Right of Access to Information, a multisectoral group including members from civil society, the media, the private sector and the government.³³ A year later, the network had finalized a draft ATI law that was eventually ratified in February 2017 as Law No. 28 on the Right to Access Information. Table 4 summarizes some of the law’s key provisions.

Table 4. Key tenets of the Law on the Right to Access Information

Article	Description
1	Any legal person, regardless of their nationality, can submit information requests to the public sector.
2	The public sector is explicitly defined to mean any state agency or court or municipality or private company in which the Lebanese state owns a stake.
3	The requested information can be in the form of written and electronic documents, audiovisual recordings, photographs, machine-readable documents, studies, reports, minutes of meetings, decrees, memos, archival documents, fiscal data and public contracts.
7	Public bodies are mandated to make their budgetary data available on their websites.
8	Public bodies are mandated to publish annual reports detailing all of the activities carried out during the year.
13	Public bodies must properly store and archive their information in ways that make information retrieval easy, preferably electronically.
16	Public bodies must appoint an ‘information officer’ who handles all ATI requests, and deadlines are specified so that the information officer must respond within 15 days of receiving an ATI request, and is allowed to extend the deadline once, by an additional 15 days, if the request demands a lot of information or if approval from a third party is required.
18	Accessing information is free, or would only cost a symbolic fee, such as the cost of printing or photocopying.
19	Should the public body refuse to provide the requested information, a written justification must be provided, while the requester has a two-month window to submit a complaint to the Anti-Corruption Commission.
22	The Commission is tasked with receiving and reviewing complaints dealing with non-compliance with ATI requests, providing guidance and advice to public bodies regarding how to implement the law, releasing annual reports on how the Law on the Right to Access Information is being abided by and what challenges are faced, and informing the public about the importance of transparency and having access to information.

Source: Law No. 28 on the Right to Access Information, published on 16 February 2017 in Issue 8 of the Official Gazette. Available on the website of the Lebanese University’s Legal Informatics Center: <http://www.legallaw.ul.edu.lb/Law.aspx?lawid=269965>.

³³ The National Network for the Right of Access to Information’s website is defunct, but an archived version can be accessed through the Internet Archive’s Wayback Machine: <https://web.archive.org/web/20090818000452/http://www.a2ilebanon.org/who-we-are>.

It should be noted that Lebanon's Law on the Right to Access Information applies both to public bodies and to private firms linked to the public sector. Furthermore, in September 2020, the Lebanese government passed Decree No. 6940,³⁴ implementing Law No. 28, which took into account remarks and comments submitted by CSOs.³⁵

While the provisions of the Law on the Right to Access Information appear comprehensive, its enactment constitutes only the first step in a long and arduous journey towards achieving full transparency. In March 2017, shortly after the law's ratification, the lawyer and anti-corruption activist Ghassan Mukheiber (also at that time a member of the legislature) stated, 'The challenge of this law is implementation'.³⁶

Survey evidence indicating that the law has been applied in a sporadic rather than systematic manner highlights the lack of transparency in the public sector, which is partly driven by the interests of the political elites. A study conducted in 2018 by the Gherbal Initiative found that out of 133 public bodies that were sent ATI requests, only 34 responded, and of these, only 18 provided the requested information.³⁷ A follow-up study was carried out in late 2018 and early 2019, requesting financial data for the year 2017 from 140 entities including public bodies, private firms contracted by the government and private firms in which the government owns shares; only 68 responded, and less than half of these provided the full range of information requested.³⁸ In March 2021, the Gherbal Initiative released its third annual report: In 2020, ATI requests were submitted to 200 public entities demanding their annual financial statements for the years 2018 and 2019. Of these entities, 102 did not respond while among those that did respond, only 47 entities provided the full requested information and 17 entities provided partial information. Although several public bodies that had not complied with the law in previous years did submit the requested information in 2020, it is worth noting that the Lebanese parliament refused to comply for the third consecutive year, with the Directorate General of the Presidency of the Lebanese Parliament arguing that the documents demanded by the ATI request should be requested from the Ministry of Finance.³⁹

Some of the public bodies to which ATI requests were submitted were simply unaware of the new law's existence, while others (see below) justified their non-compliance by citing procedural reasons (that the National Anti-Corruption Commission had yet to be established, and that the decree implementing the Law on the Right to Access Information was still awaiting release), which supposedly

³⁴ Decree No. 6940 implementing Law No. 28 on the right to access information: <http://www.legallaw.ul.edu.lb/Law.aspx?lawId=285757>.

³⁵ Remarks made by Badri Meouchi, president of the Lebanese Transparency Association, in a webinar hosted by the May Chidiac Foundation on 28 September 2020. The webinar is available at: https://www.facebook.com/watch/live/?v=804969516710751&ref=watch_permalink.

³⁶ Arbid, J. (2017), 'A step toward transparency', *Executive*, 8 March 2017, <https://www.executive-magazine.com/special-feature/a-step-toward-transparency>.

³⁷ Al Moghabat, M. (2018), *The Right to Access Information: A Study on the Lebanese Government's commitment to the Right to Access Information Law (No.2017/18)*, Gherbal Initiative, <https://www.slideshare.net/GherbalInitiative/the-right-to-access-information-a-study-on-lebanese-administrations-commitment-to-law-provisions>.

³⁸ Mehdy, H. and Merhej, C. (2019), *Transparency in Lebanese Administrations*, Gherbal Initiative, <https://elgherbal.org/reports/CtblQd1fkjlCOoDTAnVs>.

³⁹ Gherbal Initiative (2021), *Transparency in the Lebanese Public Administrations – Third Annual Report, 2020*, <https://elgherbal.org/reports/X6dATrnwtbXOmZfEVv4G>.

rendered Law No. 28 inoperative. Such excuses can be seen as flimsy at best and dishonest at worst, as the enforcement of the Law on the Right to Access Information is not in any way contingent upon the establishment of the Anti-Corruption Commission or the release of the law's implementation decree.

When the highest executive and legislative authorities in the country appear to refuse to comply appropriately with the Law on the Right to Access Information, it may be argued that there is an absence of sufficient political will to fully implement the law.

An instance that gave rise to concerns that a lack of political will was hindering the implementation of the Law on the Right to Access Information occurred in mid-2019, when an ATI request was submitted to the Council of Ministers by a group of CSOs requesting the government's official decision regarding the Deir Ammar power plant and all accompanying documents, most notably the contract to build and operate the power plant as well as the identity of the private company that obtained the contract (see also Annex, Box 5, for more information on the general state of Lebanon's electricity sector). In June 2019, the Council of Ministers' Secretary General refused the ATI request, stating that the law could not be implemented prior to the release of its implementation decree or the formation of the National Anti-Corruption Commission.⁴⁰ Outraged, the CSOs hosted a press conference in September 2019 entitled 'Blocking Access to Information is a Green Light to Corruption', calling on the government to properly implement the Law on the Right to Access Information and on parliament to pass other long-awaited anti-corruption legislation, such as the law establishing the National Anti-Corruption Commission.⁴¹ Nizar Saghieh, executive director of the Legal Agenda non-profit research and advocacy organization, claimed later that month that the government had 'rushed to exploit'⁴² the Law on the Right to Access Information for the purposes of 'boasting', not for reasons of transparency, and that the political establishment was not serious about its proper implementation.⁴³ The fact that the Presidency of the Republic, the Presidency of the Council of Ministers and parliament had refused to comply with the Law on the Right to Access Information as per the three aforementioned reports published by the Gherbal Initiative gives credence to Saghieh's claims.

⁴⁰ Saghieh, N. (2019), 'Lebanese Access to Information Law is for Boasting, not Transparency', Legal Agenda, 23 September 2019, <https://english.legal-agenda.com/lebanese-access-to-information-law-is-for-boasting-not-transparency>.

⁴¹ Kulluna Irada (2019), 'Access to Information Press Conference', 3 September 2019, <http://kulluna-irada.org/event-1>.

⁴² Saghieh (2019), 'Lebanese Access to Information Law is for Boasting, not Transparency'.

⁴³ Ibid.

To put it simply, when the highest executive and legislative authorities in the country appear to refuse to comply appropriately with the Law on the Right to Access Information, it may be argued that there is an absence of sufficient political will to fully implement Law No. 28, and to promote transparency in the public sector.

Precarious protection to whistle-blowers

The lack of an independent judiciary is a major impediment for the implementation of anti-corruption laws. It is no secret that much of Lebanon's judicial branch is perceived to be under pressure or control from the country's political class, impairing its judges' abilities to combat corruption. The legal framework regulating Lebanon's judicial system 'allows for improper political influence over virtually every aspect of judges' careers, including their selection and appointment, [...] and their discipline, suspension and removal through unfair and opaque proceedings'.⁴⁴ On numerous occasions, the Lebanese government has reportedly harassed judges by threatening to reduce budget allocations or by punishing those who participate in strikes.⁴⁵

The judiciary's lack of independence is illustrated vividly in relation to the laws on whistle-blowing. When accessing public information is impossible due to obstacles or bureaucratic intransigence, whistle-blowing becomes necessary so that corruption can be uncovered. A whistle-blower is an individual within an organization who calls 'attention to the illegal or immoral behaviour of others in the organization or of the organization itself'.⁴⁶ In recent years, governments throughout the world have begun to enact legal protections for individuals who 'blow the whistle' on wrongdoing and who leak information to journalists or the public at large that details illicit and unlawful activities that are going on within an organization.⁴⁷ Articles 32 and 33 of the UNCAC stipulate that 'effective protection from potential retaliation or intimidation' must be offered to witnesses and experts who 'give testimony' concerning corruption-related matters, while appropriate measures to offer such protection must be incorporated into the domestic legal system.⁴⁸

⁴⁴ International Commission of Jurists (2017), 'Lebanon: the ICJ calls for extensive reforms to strengthen judicial independence and accountability', 28 February 2017, <https://www.icj.org/lebanon-the-icj-calls-for-extensive-reforms-to-strengthen-judicial-independence-and-accountability>.

⁴⁵ Legal Agenda (2019), 'Legal Agenda to Lebanese Government: Stop Harassing Judges', 12 June 2019, <https://english.legal-agenda.com/legal-agenda-to-lebanese-government-stop-harassing-judges>.

⁴⁶ Seagull, L. (1994), 'Whistleblowing and Corruption Control: the GE Case', *Crime, Law and Social Change*, 22: pp. 381–90, doi:10.1007/BF01302926.

⁴⁷ Newell, J. (2018), *Corruption in Contemporary Politics: A New Travel Guide*, Manchester: Manchester University Press.

⁴⁸ UNODC (2004), *UNCAC*, pp. 25–26.

For many years Lebanon lacked such legal protections for whistle-blowers, and it was not until 2010 that draft legislation on the subject was submitted to parliament. Eight years later, in September 2018,⁴⁹ the legislature passed the law, which was published in the Official Gazette the following month as Law No. 83 on the Protection of Whistle-blowers.⁵⁰ The law’s key provisions are summarized below.

Table 5. Key tenets of the Law on the Protection of Whistle-blowers

Article	Description
1	Definitions: ‘Corruption’ is defined as any act carried out by an employee for personal enrichment or for illegal purposes. The ‘Commission’ denotes the National Anti-Corruption Commission, which has its own law stipulating its establishment. The ‘whistle-blower’ refers to any legal or natural person who provides information to the Commission that they believe may be linked to corruption, regardless of the type of document presented by the whistle-blower. The definition of ‘employee’ is very expansive as it includes any individual, elected or appointed, working in the legislative, judicial and executive branches, as well as any individual working for the military or the security agencies, advisers and any individual working for the public good, on a full-time or part-time basis, with or without compensation.
2	Whistle-blowers must provide the information at stake to the National Anti-Corruption Commission.
3	The commission’s duties and responsibilities include carrying out investigations into the corruption allegations, providing all the necessary legal and physical protection and assistance to the whistle-blower, and determining the compensation to be awarded.
4 and 5	When submitting information, whistle-blowers must specify their full name, address, profession, the type of corruption uncovered, the names of the individuals implicated in corruption, the location and time where the corrupt acts took place, and, when possible, submit all relevant documents that prove that corruption did take place.
6	The commission must not reveal the identity of the whistle-blower.
7 to 12	Protections granted to the whistle-blower, and penalties inflicted on those who (a) refuse to respond to the commission’s investigations or to those who (b) inflict physical or work-related harm on the whistle-blowers or their families.
13 to 15	Rewards and financial incentives to whistle-blowers: The National Anti-Corruption Commission provides a compensation to a whistle-blower (a) if the revelations led to the public body retrieving material assets, such as recuperating stolen funds or fines, or (b) if the revelations averted the public body from losing funds or incurring material damage. The value of the compensation is set not to exceed 5 per cent of the value of the retrieved funds or assets. If the value of the retrieved asset cannot be determined, the Commission must determine the value of the compensation based on how important the retrieved asset was, as long as the compensation does not exceed 50 times the minimum wage.

Source: Law No. 83 on the Protection of Whistle-blowers published on 18 October 2018 in Issue 45 of the Official Gazette. Available on the website of the Lebanese Association for Taxpayers’ Rights: <https://www.aldic.net/wp-content/uploads/2018/10/JO-Loi-83-dated-181018-Num.45.pdf>.

⁴⁹ *Daily Star* (2018), ‘Parliament passes series of laws in evening session’, 24 September 2018., <http://www.dailystar.com.lb/News/Lebanon-News/2018/Sep-24/464295-parliament-passes-e-transactions-law-in-evening-session.ashx>.

⁵⁰ Law No. 83 on the Protection of Whistle-blowers: <http://www.aldic.net/wp-content/uploads/2018/10/JO-Loi-83-dated-181018-Num.45.pdf>.

The provisions of the Law on the Protection of Whistle-blowers are clear and are aligned with the UNCAC; the law can be considered as a positive step towards effectively combating corruption and discouraging malicious behaviour in the public sector in Lebanon. In early October 2020, the minister of justice issued a statement declaring that a specialized office tasked with receiving whistle-blower complaints and assisting the public prosecutor's office with handling such complaints was to be established within the ministry, with its own telephone 'hotline', email address and appropriately trained staff, capable of handling such a sensitive issue and ensuring the anonymity of whistle-blowers.⁵¹ However, as of mid-2021, it is not clear whether this office or that of the public prosecutor has actually received any information from whistle-blowers – especially as the implementation of the Law on the Protection of Whistle-blowers hinges upon the establishment of the National Anti-Corruption Commission, which, at the time of writing, had yet to be established. Without the Commission in place, both the protection and compensation to which whistle-blowers are entitled are at stake.

Although an additional paragraph was appended to Article 9 of the Law on the Protection of Whistle-blowers by Law No. 182 (passed on 12 June 2020), stipulating that whistle-blowers will enjoy the protections offered by the law, should they choose to submit the corruption-related information to the public prosecutor,⁵² the law remains unlikely to be implemented, due to low levels of trust in the judicial system.

In Lebanon, the judiciary is inextricably tied to the executive – in other words, to the country's political elite.

In Lebanon, the judiciary is inextricably tied to the executive – in other words, to the country's political elite. The administrative judiciary – known as the State Council – is the judicial body responsible for providing counsel and opinions on draft laws, as well as monitoring decisions undertaken by state institutions to ensure their legal validity. In theory, the State Council is considered as an independent judicial authority that protects public funds as well as the rights of citizens and public institutions alike.⁵³ Alas, this is not the case. The State Council Bureau, the body responsible for 'ensuring the proper administration of justice within the Lebanese administrative justice system',⁵⁴ is tied to the Ministry of Justice, as its members, including the president of the State Council, 'are appointed by Cabinet Decree upon proposal of the Minister of Justice'.⁵⁵ According to the International Commission of Jurists, 'the Minister of Justice has a direct influence on the selection of all the members of the State Council Bureau'.⁵⁶

⁵¹ Najm, M. (2020), 'Bayan', *National News Agency*, 12 October 2020, http://nna-leb.gov.lb/files/pictures/5f843f49dbc01_1.jpg.

⁵² Law No. 182 amending Law No. 83 on the Protection of Whistleblowers, <http://www.aldic.net/wp-content/uploads/2020/11/J.O.Lo182.12062020.pdf>.

⁵³ Gherbal Initiative (2021), *The Lebanese Citizen's Guide on Administrative Judiciary*, <https://elgherbal.org/reports/6SnEFPhNCyGhAeNdylex>.

⁵⁴ International Commission of Jurists (2018), 'The Lebanese State Council and Administrative Courts: A Briefing Paper', Geneva: International Commission of Jurists, October 2018, p. 4, <https://www.icj.org/wp-content/uploads/2018/10/Lebanon-Memo-re-Court-Reform-Advocacy-Analysis-Brief-2018-ENG.pdf>.

⁵⁵ *Ibid.*, p. 6.

⁵⁶ *Ibid.*, p. 6.

As is the case with the administrative judiciary, Lebanon's civil judiciary is also bound by the executive branch. The High Judicial Council is the body responsible for overseeing the civil judiciary, ensuring its independence and preparing judicial formations and the appointment and transfers of judges. However, out of its 10 members, eight are appointed by the executive branch, rendering the council largely subservient to it. The public prosecution office, whose role is to initiate charges against alleged criminals in the interest of the public, is not only characterized by a very strict hierarchy, but the public prosecutors themselves are appointed on a sectarian and politicized basis.⁵⁷ A quarrel that erupted in recent months in full view of the public between the prosecutor general and the public prosecutor of Mount Lebanon, both of whom are reported to be affiliated with rival political parties, is only the latest manifestation of the dysfunctional and politicized state of the Lebanese judiciary.⁵⁸ It is no surprise then that the judiciary has lost much of the public's trust in recent years: In 2018, according to Arab Barometer, only one-quarter of the Lebanese population trusted the country's judiciary, while in 2016 this figure had been as low as 17 per cent.⁵⁹

Civil liberties in Lebanon have come increasingly under threat in recent years, while the judiciary has appeared far too willing to abide by the dictates of the political elites, apparently seeking to silence dissenting voices. The country's political elites have taken advantage of ambiguous formulations in Lebanon's penal code to clamp down on free speech.⁶⁰ Since 2015, there has been an alarming rise in the number of journalists and activists who have been summoned for interrogation by the government's Anti-Cybercrime and Intellectual Property Rights Bureau after legal complaints of slander and/or defamation were submitted by members of the political class, criticisms of whom had been posted by the detained reporters and activists on social media platforms. According to Human Rights Watch, in 2015, the Cybercrimes Bureau investigated 431 cases of defamation, libel and slander. The number significantly increased in the following years, reaching 1,451 defamation cases in 2018, the year in which parliamentary elections were scheduled.⁶¹ According to the Cybercrimes Bureau, between January 2015 and early December 2020, it conducted 4,154 defamation investigations, a number which Human Rights Watch believes is not exhaustive and which does not include interrogations carried out by other security agencies, most of which are alleged to be under the informal influence of segments of the political class.⁶² Following their interrogations, activists and reporters would be made to sign a pledge stating that they would not criticize the individual again, which fosters a climate of self-censorship.

⁵⁷ Mansour, M. and Daoud, C. (2010), 'Lebanon: The Independence and Impartiality of the Judiciary', Euro-Mediterranean Human Rights Network, <https://euromedrights.org/wp-content/uploads/2018/03/LEBANON-The-Independence-and-Impartiality-of-the-Judiciary-EN.pdf>.

⁵⁸ Assaf, C. (2021), 'Quand le linge sale intrajudiciaire se lave sur Twitter' [When dirty intra-judicial laundry is washed on Twitter], *L'Orient-Le Jour*, <https://www.lorientlejour.com/article/1263545/quand-le-linge-sale-intrajudiciaire-se-lave-sur-twitter.html>.

⁵⁹ Arab Barometer (2019), *Arab Barometer V: Lebanon Country Report*.

⁶⁰ Chehayeb, K. (2020), 'Controlling the Narrative: Lebanon Compromises Free Speech in Crisis', Tahrir Institute for Middle East Policy, 17 March 2020, <https://timep.org/commentary/analysis/controlling-the-narrative-lebanon-compromises-free-speech-in-crisis>.

⁶¹ Majzoub, A. (2019), "'There is a Price to Pay": The Criminalization of Peaceful Speech in Lebanon', Human Rights Watch, 15 November 2019, https://www.hrw.org/report/2019/11/15/there-price-pay/criminalization-peaceful-speech-lebanon#_ftn426.

⁶² Majzoub, A. (2021), 'Freedom of Speech in Lebanon Is Under Attack', Human Rights Watch, 4 May 2021, <https://www.hrw.org/news/2021/05/04/freedom-speech-lebanon-under-attack>.

A worrying backsliding in civil liberties would not bode well for the fight against corruption, and if journalists are practising self-censorship, then the likelihood of honest public officials coming forward with corruption-related evidence seems very low. It is hard to imagine how potential whistle-blowers will feel safe – and sufficiently encouraged to come forward and submit any incriminating information that they may hold.

Averting the resource curse: Transparency in oil and gas sector legislation

The established record of Lebanon's political elites using state resources to benefit their own private interests is a further challenge to implementing anti-corruption measures, as demonstrated in civil society concerns regarding Lebanon's potential offshore gas. In the early 2010s, the Lebanese public was presented with grand promises regarding the country's potential to become a gas exporter. A massive advertising campaign, commissioned by the Ministry of Energy and Water, dotted Lebanon's highways with billboards promising the improvement of the country's public transportation system, the creation of job opportunities for the youth, the enhancement of basic education and healthcare services, and the provision of retirement benefits and appropriate support to the Lebanese Armed Forces.⁶³ At the time of writing in mid-2021, none of these grand promises has been fulfilled, and the development of the country's petroleum sector has proceeded at a slow pace. Given the systemic nature of corruption in Lebanon and the poor governance that characterizes its public sector, there is no guarantee that the nascent petroleum sector, which has yet to generate significant revenues, will be insulated from the grip of the political elites and their cronies in the private sector.

Lebanon's recent experience with hydrocarbons sector development dates back to the mid-2000s, when substantial reserves of natural gas were discovered in the Eastern Mediterranean.

Lebanon's recent experience with hydrocarbons sector development dates back to the mid-2000s, when substantial reserves of natural gas were discovered in the Eastern Mediterranean. In February 2007, Lebanon signed a bilateral agreement with the government of Norway under the latter's Oil for Development Programme: this aimed 'to prepare Lebanon for the management of possible petroleum resources in the offshore Exclusive Economic Zone'⁶⁴ and to establish the 'regulatory

⁶³ Abou Zaki, R. (2013), 'Qalbuna al saghir la yatahammal' ['Our little hearts cannot bear this'], *Al Modon*, 8 April 2013, <https://www.almodon.com/print/3f92bc01-fe51-4be0-a318-fbbce8eb2c32/b45f36f2-de4f-4bff-ab57-2a9738b052bb>.

⁶⁴ *Daily Star* (2007), 'Norway opens embassy in Beirut, pledges program of cooperation', 22 October 2007, <https://www.dailystar.com.lb/News/Lebanon-News/2007/Oct-22/46371-norway-opens-embassy-in-beirut-pledges-program-of-cooperation.ashx>.

framework needed to pursue petroleum exploration'.⁶⁵ Since then, several key pieces of legislation to regulate the oil and gas sector have been passed. Law No. 132 on Offshore Petroleum Resources,⁶⁶ which is the general legal framework through which the government provides contracts to oil companies in the sector, was passed in 2010, followed in 2012 by Decree No. 7968, which established the Lebanese Petroleum Administration (LPA).⁶⁷ The LPA is an autonomous public agency 'mandated to plan, supervise and manage the upstream petroleum sector in Lebanon's offshore',⁶⁸ prepare petroleum-related legislative drafts, strategies and technical studies, as well as undertake 'all necessary preparations related to licensing rounds'.⁶⁹ In 2013, Decree No. 10289, also known as the Petroleum Activities Regulation Decree, was passed, further delineating the rights and obligations of all concerned parties and stakeholders participating in oil and gas-related activities.⁷⁰

To ensure that Lebanon's petroleum sector is run in a transparent manner, a draft law on combating corruption in the petroleum sector was presented to the legislature in 2016. In the following year, the LPA worked with several MPs on refining the draft law to make it more comprehensive and to ensure compliance with the Extractive Industries Transparency Initiative's *Guide for Legislators*.⁷¹ In 2018, parliament ratified Law No. 84 on Enhancing Transparency in the Petroleum Sector,⁷² the key provisions of which are summarized in Table 6.

Table 6. Key tenets of the Law on Enhancing Transparency in the Petroleum Sector

Article	Description
1	The law not only applies to all petroleum activities in Lebanon, be it onshore or offshore, but also to all workers in the sector, regardless of their nationality and regardless of whether they are working in the public or private sectors.
4	Relevant parties (defined to mean the Council of Ministers, Ministry of Energy and Water and the LPA, as well as all public bodies directly involved in petroleum activities) are required to publish quarterly reports and/or disclose activities related to petroleum activities, while contractors (i.e. companies offered contracts to carry out activities in the petroleum sector) are required to publish and/or disclose their information within two months of obtaining the contract. Information classified as secret is excluded from the requirements of disclosure.
5	The information disclosed will be monitored to ensure that it is compliant with all petroleum sector-related legislation and that it is accurate.

⁶⁵ Lebanese Oil and Gas Initiative (n.d.), 'What has Lebanon done so far?', <https://logi-lebanon.org/Timeline>.

⁶⁶ Law No. 132 of 2010 on Offshore Petroleum Resources, <http://extwprlegs1.fao.org/docs/pdf/leb99594.pdf>.

⁶⁷ Decree No. 7968/2012 establishing the Lebanese Petroleum Administration: <https://www.lpa.gov.lb/Library/Assets/Gallery/asdasdas/Decrees/Petroleum%20Administration%20Decree%20no.%207968%20%E2%80%93%20issued%20on%20April%207,%202012.pdf>.

⁶⁸ Lebanese Petroleum Administration (n.d.), 'About LPA: Mission and Mandate', <https://www.lpa.gov.lb/english/about/mission-and-mandate>.

⁶⁹ Ibid.

⁷⁰ Decree No. 10289 on the Petroleum Activities Regulations implementing the Offshore Petroleum Resources Law No.132 of 2010: <http://www.legallaw.ul.edu.lb/Law.aspx?lawId=285757>.

⁷¹ Mohanna, M. (2019), 'Mulahazat hawl qanoun da'm al shafaiyya fi qita' al petrol' ['Comments on the Transparency in the Petroleum Sector Law'], Legal Agenda, 17 May 2019, <https://legal-agenda.com/-ملاحظات-حول-قانون-دعم-الشفافية-في-قطاع>.

⁷² Law No. 84 on Enhancing Transparency in the Petroleum Sector, <https://www.lpa.gov.lb/Library/Assets/Gallery/asdasdas/Laws/2018-2084%20قانون%20-%20الشفافية%20في%20قطاع%20البترو%20-%20دعم%20الشفافية%20في%20قطاع.pdf>.

Article	Description
6	<p>The following persons and parties, alongside their spouses, first-degree ascendants and descendants, as well as any partner or trustee, are prevented from participating directly and indirectly in the petroleum sector during their time in office, and for the three consecutive years following the end of their time in public office:</p> <ul style="list-style-type: none"> • The president of the republic, his staff and consultants; • The prime minister and ministers; • Members of parliament; • Directors-general and other government officials holding similar status; • The heads and members of the board of directors of public bodies, as well as the heads and members of the board of directors of state-owned companies; • Lebanese ambassadors and consuls; • The heads of the country's security apparatus; • The head and members of the Constitutional Council; • The head and members of the High Judicial Council; • The chair, members and heads of departments of the State Council • The head and judges of the Court of Accounts; • The judges of the Appeal, Cassation and Financial Public Prosecution Department, as well as the Financial Public Prosecutor; • The judges and members of the expropriation commissions. <p>Thus, the aforementioned individuals and their close affiliates are not allowed to own stakes in contracted companies or in subcontractors working with these companies in the petroleum sector, and are not allowed to assume positions of authority (such as serving as members of the board or as managers in contracted companies or subcontracted companies).</p>
7	<p>Bribes to obtain preferential treatment in the pre-qualification stage or in the process of acquiring petroleum licences are prohibited. Violators will be arrested for a minimum of four years and must pay a penalty amounting up to three times the value of the financial benefit expected or obtained.</p>
8	<p>The minister of energy and water must publish the standards and requirements by which companies seeking to register in the pre-qualification round must abide, and the minister must publish the list of companies that have applied after the closing date of applications. The companies that have applied have the right to submit questions or requests for clarifications to the Council of Ministers, the Ministry of Energy and Water or the LPA, and the minister is tasked with publishing the questions, and the answers thereto, without mentioning which company has submitted which question. The minister will then publish the results of the pre-qualification round to the companies applying.</p>
9 and 10	<p>When it comes to awarding petroleum rights, the Council of Ministers, the minister of energy and water, the Ministry of Finance and the LPA must all abide by strict, transparent procedures and respect the principle of free, fair and unbiased competition. All information related to the granting, transferring or waiving of petroleum licences must be disclosed. This includes information on the exploration and production agreements (EPA) signed, the standards upon which licences for exploration and production are awarded, the blocks that are open for exploration, the royalties and profits accrued, and the value of the taxes collected on petroleum-related activities etc.</p> <p>In addition, companies awarded contracts must disclose any information or procedure to the Petroleum Register, including the disclosure of the beneficial owner by the companies holding the petroleum licences.</p>
12	<p>The revenues generated from petroleum activities and registered in the sovereign wealth fund must be disclosed, while any of the revenues within the fund that have been withdrawn and invested must be disclosed, and the reason behind the investment must be made public. In addition, the yearly revenues generated from the fund's investments must be disclosed.</p>

The law has also granted civil society ‘the right to continuously monitor the transparency of petroleum activities’.⁷⁴ Furthermore, Article 10 (7) on the concept of ‘beneficial ownership’ requires all identities of the owners and beneficiaries of all firms in the value chain to be made public, which could limit the potential for corruption at the subcontracting level.⁷⁵

At first glance, it appears that the Law on Enhancing Transparency in the Petroleum Sector is being properly implemented. The LPA has been complying with its provisions as well as with those of the Law on the Right to Access Information, and the administration’s activities are documented and made available to the public to the fullest extent via the LPA’s website.⁷⁶ A visit to the website reveals its sleek design and user-friendly interface, and the ease of accessing key documents.⁷⁷

However, several caveats arise. Firstly, as with the other laws covered in this paper, the Law on Enhancing Transparency in the Petroleum Sector accords many responsibilities and tasks to the National Anti-Corruption Commission, such as ensuring that the law itself is implemented and that the information provided to the public is accurate. Given that the Commission has yet to be established, this complicates the law’s implementation. In addition, the law does not clearly delineate the punishments that are to be meted out on those who violate it, be they employees of the private firms in the petroleum value chain or public officials.⁷⁸

Given the systemic nature of corruption in Lebanon, there is a very real risk that the sector as a whole could become an avenue for the further self-enrichment of the political class without transparency and adequate monitoring.

More worryingly, given the systemic nature of corruption in Lebanon, there is a very real risk that the sector as a whole could become an avenue for the further self-enrichment of the political class without transparency and adequate monitoring. From the first stage of the value chain, where licences for exploration and production are agreed with oil companies, to the subcontracting stage, where the oil companies procure the services of other companies, it is very possible that politically affiliated firms could obtain preferential treatment, should Law No. 84 not be properly implemented. As has happened in many resource-rich countries across the world, Lebanon risks falling prey to the resource curse⁷⁹ whereby ‘in the absence of good governance, strong institutions, rule of law and effective

⁷⁴ Ibid.

⁷⁵ Mohanna (2019), ‘Mulahazat hawl qanoun da’m al shafafiyya fi qita’ al petrol’ [‘Comments on the Transparency in the Petroleum Sector Law’].

⁷⁶ Information provided by Gaby Daaboul, head of the LPA’s Legal Department, in a webinar held by the Lebanese Transparency Association in April 2020, available at <https://www.facebook.com/watch/?v=248056079630264>.

⁷⁷ For example, the LPA’s publications (including its Financial Reports) are available at: <https://www.lpa.gov.lb/english/topmenu/transparency/read-what-is-published>.

⁷⁸ Mohanna (2019), ‘Mulahazat hawl qanoun da’m al shafafiyya fi qita’ al petrol’ [‘Comments on the Transparency in the Petroleum Sector Law’].

⁷⁹ Saidi, N. (2018), ‘Foreword’, in Courson, J. (2018), *Is Lebanon preordained to Become a ‘Preresource’ Curse Country?*, Lebanese Oil and Gas Initiative, 15 November 2018, p. 5, https://logi-lebanon.org/uploaded/2018/11/MJUIFN54_Presource%20Curse-V.1.6-online.pdf.

regulations’,⁸⁰ the country’s petroleum sector would be ‘likely to lead to more corruption and capture of the resource wealth by special interest groups and politicians to the detriment of the national interest and future generations’.⁸¹

Although Lebanon’s petroleum sector is still in its infancy, questions have been raised regarding the limited revenues that have been collected thus far. The Lebanese state has already generated revenues from the application fees paid by companies seeking to participate in the licensing round, and from the sale of data resulting from seismic surveys carried out in the 1990s and 2000s to companies interested in participating in the hydrocarbons sector. The Law on Offshore Petroleum Resources, passed in 2010, stipulates that returns from all petroleum-related activities are to be deposited in a sovereign wealth fund – yet to be established – which will have its own regulations governing how the revenues are to be used and invested. In 2012, the Council of Ministers passed a resolution stipulating that the returns generated from the sale of data from offshore seismic surveys were to be ring-fenced by transferring them to a designated account held at the Banque du Liban, with the energy minister at the time justifying this stipulation as a means to protect these funds from being used by the government, and to safeguard the initial intention of the 2010 Law on Offshore Petroleum Resources.

This situation exemplifies how the resource curse could potentially manifest itself in Lebanon: by being placed in a special account at the Banque du Liban, the revenues are not subjected to appropriate external oversight, be it by parliament or by other monitoring agencies. The Ministry of Energy and Water and the LPA failed to publish detailed information on the amounts deposited in the designated account, and it was not until significant pressure was exerted by civil society groups – armed with the Law on Enhancing Transparency in the Petroleum Sector – that the LPA eventually published the figures in March 2019.⁸² As at 30 April 2021, the account balance was reported to be \$45.19 million.⁸³ However, this figure was not accompanied by any official validation documents, which has prompted CSOs to call for an audit of the Banque du Liban account – this has yet to take place.⁸⁴

Despite some promising indications, such as the comprehensive provisions of the Law on Enhancing Transparency in the Petroleum Sector, the example cited above emphasizes that no matter how well anti-corruption and transparency laws are crafted, there is a perception that they are unlikely to be implemented appropriately without coordinated pressure from below. Moreover, even when information is provided as requested, its validity may be treated with scepticism in the absence of a trusted monitoring mechanism tasked with ensuring appropriate management of the accounts and revenues. There are justifiable worries regarding the future of the petroleum sector and the way it is administered, with many Lebanese believing that ‘the oil and gas sector will be another means by which the political class will siphon Lebanon’s wealth’.⁸⁵

⁸⁰ Ibid.

⁸¹ Ibid.

⁸² Ghosn, J. (2019), *Follow the money: tracking revenues from sales of seismic data to enhance public accountability*, Lebanese Oil and Gas Initiative, 30 December 2019, https://logi-lebanon.org/uploaded/2020/2/37FLLRMA_Seismic%20Data%20Investig%20-%20English.pdf.

⁸³ See LPA website: <https://www.lpa.gov.lb/english/topmenu/transparency/read-what-is-published>.

⁸⁴ Ghosn (2019), *Follow the money*.

⁸⁵ Haytayan, L. (2018), ‘How far can Lebanon go with transparency measures in its oil and gas sector?’, *Executive*, 3 October 2018, <https://www.executive-magazine.com/economics-policy/too-good-to-be-true>.

The Anti-Corruption Commission Law: A potential ‘paper tiger’

The existence of a weak state infrastructure presents an additional obstacle to the implementation of anti-corruption legislation in Lebanon. Specifically, and in addition to wider problems, it impedes the establishment of a National Anti-Corruption Commission in the country. In much of the literature on corruption and how it can be combated, reference is often made to ‘anti-corruption commissions’, which tend to be autonomous public bodies composed of experts from several fields (accounting, law, public administration, and so on) with wide-ranging legal and executive powers enabling them to carry out all types of anti-corruption activities. Such commissions play a key role in limiting and deterring corruption, as well as in promoting the values of openness, transparency and integrity in the public sector and in society at large.⁸⁶ Article 6 of the UNCAC states that a body tasked with overseeing and guiding all anti-corruption efforts should be established, which would also disseminate ‘knowledge about the prevention of corruption’⁸⁷ and would benefit from ‘the necessary independence’⁸⁸ to be able to carry out its functions without succumbing to pressure or undue influence. The UNCAC also stipulates that such a body should be provided with ‘[t]he necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions’.⁸⁹

When sufficiently funded, well staffed and unconditionally supported by political authorities, anti-corruption commissions can have a real impact. The anti-corruption commissions in Singapore and Hong Kong, for example, are often heralded as paragons to be emulated. Singapore and Hong Kong were considered underdeveloped and systemically corrupt during the 1960s and 1970s. In both cases, strong anti-corruption commissions were established, enjoying the full support of the top political elites and benefiting from adequate funding and human resources. In the late 2010s, Singapore and Hong Kong were considered to be among the least corrupt places in the world, with efficient and well-functioning public sectors and dynamic economies unencumbered by corruption.⁹⁰

Lebanon has never yet had an independent public agency tasked to combat corruption and ensure the full implementation of corruption-related laws. This might change in the near future, following the passage in 2020 (see below) of the law providing for the establishment of an Anti-Corruption Commission. However, the effective functioning of the commission, which would have numerous responsibilities and tasks, is contingent upon it being well funded and well staffed. In addition, as is the case for other anti-corruption laws and bodies across the world, such a commission requires full political support from the highest echelons of power, as well as an independent judiciary, in order to be functional. In Lebanon, all of these pillars – upon which a commission must rest, if it is to have sufficient impact – are currently inadequate.

⁸⁶ Sekkat (2018), *Is Corruption Curable?*.

⁸⁷ UNODC (2004), *UNCAC*, p. 10.

⁸⁸ *Ibid.*

⁸⁹ *Ibid.*

⁹⁰ Rotberg (2017), *The Corruption Cure*.

The concept of a Lebanese Anti-Corruption Commission first emerged in 2006, when a parliamentary committee began reviewing the possibility of introducing a law to establish such a commission. In 2013, a multi-sectoral committee was formed to prepare a draft law that was then submitted to several parliamentary committees for scrutiny. After a revision (based on comments made by President Michel Aoun) to ostensibly improve the law’s effectiveness and make it more compatible with the other existing anti-corruption legislation in the country,⁹¹ in April 2020 parliament passed Law No. 175 on Fighting Corruption in the Public Sector and the Establishment of the National Anti-Corruption Commission Law (hereafter referenced as the Anti-Corruption Commission Law).⁹² Some of the law’s key provisions are summarized in Table 7.⁹³

Table 7. Key tenets of the Anti-Corruption Commission Law

Article	Description
1	‘Corruption’ is defined as the abuse of public office for direct or indirect private gain for oneself or for the benefit of others.
2 and 3	Corruption-related crimes are defined.
5	The Anti-Corruption Commission is considered to be an administratively and financially autonomous public body.
6	<p>The commission’s structure: the commission is composed of six members who must (a) have a master’s degree or above, (b) have a minimum of 10 years of experience, (c) uphold the highest standards of integrity, and (d) be between the ages of 40 and 70 at the time of appointment.⁹⁴ Areas of expertise include the judiciary, law, accounting, banking, finance and administrative reform. The commission’s members must not have been members of any political party/organization in the five years preceding their appointment.</p> <p>The commission’s members are selected as follows:</p> <ul style="list-style-type: none"> • Two of the members must be retired senior judges who are selected through an election organized by the judicial branch and overseen by the highest judicial authorities of the country. Following the election, the minister of justice submits the two names to the Council of Ministers for approval. The most senior ranking of the two judges selected must occupy the position of president of the commission; if both judges are of the same rank, the eldest one is made president. • One of the members of the commission must be a lawyer or legal expert. The Beirut Bar Association and the Tripoli Bar Association each suggest two names to the Council of Ministers, from which one is chosen. • The Lebanese Association of Certified Accountants (i.e. the accountants’ syndicate) proposes the names of three experts in accounting to the Council of Ministers, from which one is chosen.

⁹¹ Abi Haidar, C. (2020), ‘Dirasa qanouniyya li qanoun mukafahat al fassad fi al qita’ al ‘am wa insha’ al hay’a al wataniyya li mukafahat al fassad’, Lebanese Transparency Association, February 2019, <https://www.yumpu.com/ar/document/read/63257402/->.

⁹² Al Markazia (2020), ‘Iqrar qanoun mukafahat al fassad... al ‘ibra fi al tanfiz. Abi Haidar: lil isra’ fi tashkil hay’atihi al wataniyya li darouratiha’ [‘Passage of the Anti-Corruption Law... the lesson is in implementation. Abi Haidar: The Anti-Corruption Commission must be established soon’], 23 April 2020, <https://www.almarkazia.com/ar/news/show/212342/ح-إقرار-قانون-مكافحة-الفساد-الع-برة-في-التنفيذ-أبي-ح>.

⁹³ Law No. 175 on Fighting Corruption in the Public Sector and the Establishment of the National Anti-Corruption Commission, <http://www.aldic.net/wp-content/uploads/2020/05/Loi-No.-175-relative-a-la-lutte-contre-la-corruption-dans-le-secteur-public-et-a-la-creation-de-la-commission-nationale-pour-la-lutte-contre-la-.pdf>.

⁹⁴ The original text of the law stipulated that the age of the commission’s members should not exceed 64. However, a correction was issued in the Official Gazette No. 29 (dated 9 July 2020), p. 1513, changing the maximum age to 70.

Article	Description
	<ul style="list-style-type: none"> • The Banking Control Commission proposes the names of three experts in banking and finance to the Council of Ministers, from which one is chosen. • The minister of state for administrative reform proposes the names of three experts in public administration, public finances or anti-corruption matters to the Council of Ministers, from which one is chosen. <p>After the names have been presented to the Council of Ministers, the six members are appointed for a non-renewable six-year mandate.</p>
14	Members of the commission decide on the commission's administrative structure once it is formed, and the commission's employees will be considered as public sector employees.
15	The commission's annual budget must cover its expenses and activities. A special account for the commission is to be established at the Banque du Liban, to be audited by relevant monitoring agencies. Given that the commission is financially autonomous, it is legally allowed to receive funding from a wide array of sources, such as donor funds.
17	The commission has the right to demand from any Lebanese or non-Lebanese entity any documents or information that are deemed relevant and necessary for the commission's work.
18	The commission's tasks are defined: preventing and detecting corruption, ensuring that international anti-corruption treaties that Lebanon has ratified are properly implemented, investigating corruption-related complaints and evidence, and submitting findings to the relevant administrative and judicial authorities. Other tasks include: preparing specialized and periodic reports on corruption in Lebanon and on the implementation of existing anti-corruption laws, raising awareness on integrity and the need to fight corruption in the public sector and in society at large, receiving public sector employees' financial disclosure forms, verifying their veracity in line with Law No. 189 on Illicit Enrichment (see below), offering protection to whistle-blowers in accordance with the Law on the Protection of Whistle-blowers, and receiving and investigating complaints regarding non-compliance with the Law on the Right to Access Information.
20	The commission's investigatory powers allow it to request documents and assistance from the judicial police without having to go through the public prosecutor's office first. It may also take precautionary measures, such as demanding that the relevant judicial authorities freeze the bank accounts and assets and ban the travel of individuals suspected of corruption.
24	The commission must prepare periodic reports and release annual reports detailing accomplished achievements, encountered challenges and upcoming activities. The reports must be published in the Official Gazette and made available online, and copies must be provided to the offices of the president, the prime minister and the speaker of parliament, as well as to ministers, MPs, the president of the High Judicial Council, the president of the State Council and the head of the Court of Accounts.
26	The commission must conduct studies on integrity and corruption, and work towards raising awareness on the negative implications of corruption while promoting integrity and transparency within the public sector (particularly within the Ministry of Education, given the important role educational institutions play in promoting values of integrity) and society at large.

Source: Law No. 175 on Fighting Corruption in the Public Sector and the Establishment of the National Anti-Corruption Commission, published on 14 May 2020 in Issue 20 of the Official Gazette. Available on the website of the Lebanese Association for Taxpayers' Rights: <http://www.aldic.net/wp-content/uploads/2020/05/Loi-No.-175-relative-a-la-lutte-contre-la-corruption-dans-le-secteur-public-et-a-la-creation-de-la-commission-nationale-pour-la-lutte-contre-la.pdf>.

The Anti-Corruption Commission, as proposed, complements several anti-corruption laws, and is invested with investigatory and precautionary powers allowing it to examine potential corruption cases and ensure that suspects are held accountable if proven guilty. The composition of the commission's six members and the way they are appointed is noteworthy, as the selection process (see Article 6) partly limits interference in that process from the country's political elites, whether in parliament or in the cabinet.

However, several misgivings persist. For instance, the lengthy (six years) and uninterrupted mandate of the commission's members should be addressed with caution, as there is no criterion for dissolving the commission, and no guarantee that the members will form a cohesive and effective unit for a full six years. Furthermore, given that the commission is financially autonomous, this could mean reliance on donor agencies for funding, which would not bode well for its long-term viability.⁹⁵ More problematic than the reliance on donor funding is the fact that the Draft 2021 Budget Law prepared by the Ministry of Finance in January 2021 contains some provisions that raise concerns that the commission's financial autonomy will be limited.⁹⁶ The draft budget law proposes amending Article 15 of the Anti-Corruption Commission Law to stipulate that the commission's annual budget will fall under the prime minister's office, which may negatively impact funding for the commission.⁹⁷ Since, according to the literature, one of the key characteristics of effective anti-corruption commissions is adequate financing and human resources, and given the current financial collapse Lebanon is experiencing, and the fact that the Lebanese state is virtually bankrupt, there are no guarantees that the commission will be able to rely on the requisite funding to function effectively and hire qualified staff, particularly should its budget be funnelled through the prime minister's office as the Draft 2021 Budget Law stipulates.

Given the current financial collapse Lebanon is experiencing, and the fact that the Lebanese state is virtually bankrupt, there are no guarantees that the commission will be able to rely on the requisite funding to function effectively.

In addition to these potential shortcomings, there is uncertainty over whether the commission itself will be capable of fulfilling its purpose. For example, in response to the question of whether the Anti-Corruption Commission Law would be implemented, legislator Paula Yaacoubian responded that '[y]ou can't ask a corrupt class to form an anti-corruption committee [...]. No one is going to combat

⁹⁵ Information provided by lawyer Christina Abi Haidar, who played a part in the drafting of the Anti-Corruption Commission Law, in a webinar hosted by the Lebanese Transparency Association, 21 April 2020, <https://www.facebook.com/watch/?v=2910079069076395>.

⁹⁶ Ministry of Finance (2021), 'Mashrou' qanoun al muwazana al 'amma lil 'am 2021' ['Draft Law on the State Budget for 2021'], <https://www.almarkazia.com/uploads/files/d473f484882ac7c0d2b1899738a94112.pdf>.

⁹⁷ Ibrahim, F. (2021), 'Shabhat fassad fi ta'yinat hay'at mukafahat al fassad: al tashri' 'ala qiyas ashkhas' ['Suspensions of corruption in the appointments of the Anti-Corruption Commission: Legislating on the basis of individuals'], Legal Agenda, 15 February 2021, <https://legal-agenda.com/شبهة-فساد-في-تعيينات-هيئة-مكافحة-الفساد>.

themselves'.⁹⁸ Shakib Qortbawi, a former minister of justice, expressed concern that Law No. 175 might end up suffering the same fate as the 2012 law that banned smoking in indoor spaces – legislation that is quasi-unanimously ignored, and often brandished as an example of the poor implementation of laws in the country.⁹⁹ This uncertainty towards the potential ineffectiveness of the Anti-Corruption Commission is not unwarranted. It is worth bearing in mind that, as per Article 6 of the law, the minister of state for administrative reform is tasked with proposing the names of three candidates, from whom one is chosen by the cabinet, thus giving the executive branch a direct hand in the six-member commission. In addition, the Banking Control Commission proposes the names of three candidates from whom one is chosen by the cabinet. The Banking Control Commission, one of the Banque du Liban's departments, is 'an administratively independent body [...] composed of five members who are appointed by the Council of Ministers for a five-year term' and whose function is to oversee the proper functioning of financial institutions in Lebanon 'in close coordination with the Governor of the Central Bank'.¹⁰⁰ Yet, the members of this Banking Control Commission are proposed by the Association of Banks in Lebanon, a lobby group representing commercial banks in Lebanon. The political class of Lebanon and the banking sector are inextricably intertwined, and it is common to see the names of prominent politicians or their relatives and associates appear on the boards of the country's major banks.¹⁰¹ Thus, giving the Banking Control Commission a say in the composition of the Anti-Corruption Commission is akin to giving the Association of Banks – and thus segments of the political class – a seat in the Anti-Corruption Commission. This represents, at the very least, a potential conflict of interest.

Despite the stipulation contained in Article 6 of the Anti-Corruption Commission Law that the entities responsible for selecting the commission's members must submit their chosen names within three months of the law's publication in the Official Gazette, the commission has yet to be established as of June 2021. Given the explosion that destroyed the Port of Beirut on 4 August 2020 (see Annex, Box 3), the resignation, in its aftermath, of the Hassan Diab government, and the subsequent escalation of the COVID-19 pandemic in Lebanon, it is not surprising that the selection and election of members of the National Anti-Corruption Commission appear to have been put on the back burner by both the caretaker government and the entities responsible for submitting names of candidates to the Council of Ministers. In late December 2020, the head of the High Judicial Council released a statement calling on all judges to attend an election due to take place on 23 January 2021 to elect the two members of the commission.¹⁰² However,

⁹⁸ Azhari, T. (2019), 'Anti-corruption body could go the way of smoking ban', *Daily Star*, 10 July 2019, <https://www.dailystar.com.lb/News/Lebanon-News/2019/Jul-10/487207-anti-corruption-body-could-go-the-way-of-smoking-ban.ashx>.

⁹⁹ Ibid.

¹⁰⁰ Banque du Liban (n.d.), 'Banking Control Commission of Lebanon', <https://www.bdl.gov.lb/tabs/index/1/141/Committees-&-Commissions.html#:~:text=The%20Banking%20Control%20Commission%20of,department%20of%20the%20central%20bank.&text=The%20BCC's%20function%20is%20to,brokerage%20firms%20and%20leasing%20companies>.

¹⁰¹ Maucourant Atallah, N. and Tamo, O. (2021), 'Dangerous liaisons: How finance and politics are inextricably linked in Lebanon – part I of II', *L'Orient Today*, 15 January 2021, <https://today.lorientlejour.com/article/1248323/dangerous-liaisons-how-finance-and-politics-are-inextricably-linked-in-lebanon-part-i-of-ii.html>.

¹⁰² El Nashra (2020), 'El qadi Abboud da'a li intikhab qadiyayn fi al hay'a al wataniyya li mukafahat al fassad' ['Judge Abboud calls for the election of two judges in the National Anti-Corruption Commission'], 28 December 2020, <https://www.elnashra.com/news/show/1472628/الوكيل-القاضي-عبود-دعا-لانتخاب-قاضييْن-الهيئة-الوطنية-لمكافحة-الفساد>.

as the coronavirus pandemic intensified further in early 2021, these elections were postponed¹⁰³ and finally took place on 12 June 2021. According to Nizar Saghie, executive director of the Legal Agenda, one of the two winners is a judge known for her integrity and is backed by the Judges' Association, a bloc within the judiciary composed of judges advocating for judicial reform and the independence of the judiciary.¹⁰⁴

Globally, there are several examples of the establishment of anti-corruption commissions that have come to be perceived as little more than 'paper tigers' in practical terms. In Kenya, for example, an anti-corruption commission was established in 2003; its funding was reliant on the government, however, and its director was appointed by the country's parliament. Despite investigating several corruption cases and submitting findings to the relevant judicial authorities, the commission was widely felt not to have been given due weight by Kenya's judicial authorities and executive branch, and entrenched corruption continues in the country.¹⁰⁵ The Kenyan example illustrates how a lack of political will to fight corruption, coupled with a non-independent judiciary and funding that is tied to the government, can render an anti-corruption commission ineffective.

It remains to be seen what course the Anti-Corruption Commission in Lebanon will take. Will it develop along the lines of the Singapore and Hong Kong models, or succumb to political pressures and challenges, as in the Kenyan model? Given the long history of Lebanon's deep-rooted and systemic corruption, and the apparent lack of political will to address corruption in the country, it would not be a surprise if it comes to resemble the latter more closely than the former.

The 2020 Law on Illicit Enrichment: A tool for the settling of political scores

A further obstacle to effective anti-corruption laws is when the laws themselves have been designed in a way that hinders their own implementation, as has long been the case with Lebanon's laws on illicit enrichment. Article 20 of the UNCAC states that signatories should pass laws that criminalize illicit enrichment, defined as 'a significant increase in the assets of a public official that he or she cannot reasonably explain in relation to his or her lawful income'.¹⁰⁶

¹⁰³ Al Liwaa (2021), 'Abboud da'a al hay'a al nakhiba ila al iltizam fi 12 huzayran li intikhab qadiyayn fi hay'a mukafahat al fassad' ['Abboud calls on judges to abide by 12 June as the date for the election of two judges in the Anti-Corruption Commission'], 5 May 2021, <http://aliwaa.com.lb/-الإنتماء-الى-الهيئة-الناخبة-الى-الإلتزام> أخبار-لبنان/سياسة/عبود-دعا-الهيئة-الناخبة-الى-الإلتزام-في-12-حزيران-لانتخاب-قاضيين-في-هيئة-مكافحة-الفساد

¹⁰⁴ Saghie, N. (@nsaghieh) (2021), 'نجحت', 'القاضية تبريز علاوي المشهود بنزاهتها بحصد ١٠٠ صوت غالبهم من قضاة النادي وقضاة مستقلين وكسر مرشحين آخرين منهم مروان كرم كركبي الذي ارتبط اسمه بقضية امبريال جيت. الناجح الآخر هو كلود كرم' ["Today was the first election in which more than 300 judges participated to elect two members of the commission. Judge Tabriz Allawi, known for her integrity, succeeded to win 100 votes, mostly from the club's judges and independent judges, defeating other candidates, including Marwan Karkabi, whose name was associated with the Imperial Jet case. The other winner is Claude Karam.'], tweet, 12 June 2021, <https://twitter.com/nsaghieh>.

¹⁰⁵ Rotberg (2017), *The Corruption Cure*.

¹⁰⁶ UNODC (2004), *UNCAC*, p. 19.

Unlike much of the current body of anti-corruption legislation detailed above, Lebanon's laws on illicit enrichment date back to the early days of the post-independence era. In 1953, a law on illicit enrichment was passed, followed a year later by a law on financial disclosures. Both laws were eventually merged in 1999 into Law No. 154 on Illicit Enrichment.¹⁰⁷ Given that such a crucial law has existed for many decades, one might question why acts of bribery have been so common throughout Lebanon's history.

According to one former head of the Constitutional Council, Law No. 154 was essentially designed to be unimplementable.¹⁰⁸ Closer scrutiny of the law's provisions indicates that this is the case. To begin with, the law stipulated that public sector employees submit only two financial disclosures (at the start and end of their term) to the central bank. Given that public sector employees usually spend decades in their posts, the detection of any anomalies or illicitly acquired funds based on only two financial disclosures, presented many years apart, is nearly impossible. In addition, the law did not specify the nature of the assets to be disclosed; it made no reference to the interests accrued, royalties or debt repayments that civil servants might amass from outside their work in the public sector.¹⁰⁹

Perhaps the most egregious aspect of the 1999 law, and the aspect that made it virtually unimplementable, was the system in place for submitting complaints. Article 10 of the law stipulated that any aggrieved individual seeking to lodge a complaint must submit it alongside a bank guarantee of 25 million Lebanese pounds (approximately \$16,500)¹¹⁰ – either to the public prosecutor, or directly to the first investigative judge in Beirut. The complaint had to be accompanied by proof that the employee suspected of illegal enrichment had actually committed a crime and profited from it. Such a large financial guarantee, which would be beyond the means of a large proportion of citizens, as well as the difficulties entailed in obtaining proof of criminal activity, served intrinsically to render potential complainants powerless to proceed. More problematically, Article 15 of the 1999 law stipulated that, should the complaint be unsuccessful and the complainant found to have acted in bad faith, the latter would be fined a minimum of 200 million Lebanese pounds (equivalent to roughly \$132,600)¹¹¹ and imprisoned for a period of between three and 12 months. Given the difficulties in obtaining actual documentation proving an employee's illicit enrichment, it was easy for the charge of 'acting in bad faith' to be lodged against potential complainants or whistle-blowers.

¹⁰⁷ Law No. 154 on Illicit Enrichment, available at: <http://www.undp-aciac.org/publications/Law154.pdf>.

¹⁰⁸ Tohme, N. (2017), 'Issam Sleiman li Annahar: qanoun al ithra' ghayr al mashrou' wudi'a kay la yutabbaq' ['Issam Sleiman to Annahar: The Illicit Enrichment Law was passed to be unimplementable'], *Annahar*, 10 February 2017, <https://www.annahar.com/arabic/article/537702--مغلطات-مقفت-مقفلت-سليمان>.
التصريح-عن-أموال-المسؤولين-في-مغلطات-مقفت-مقفلت-سليمان-لاننها-قانون-الإثراء-غير

¹⁰⁹ Transparency International (2015), *Asset Declarations in Lebanon: Illicit Enrichment and Conflicts of Interest of Public Officials*, Berlin: Transparency International, https://images.transparencycdn.org/images/2016_AssetDeclarationsInLebanon_EN.pdf.

¹¹⁰ The conversion rate used is the official rate of \$1 = 1,507.5 Lebanese pounds, as stated on the Banque du Liban's website: <https://www.bdl.gov.lb>.

¹¹¹ Ibid.

In June 2008, a new draft law on illicit enrichment, which was meant to replace and improve on the deficiencies of the 1999 law, was submitted to the Lebanese parliament, and after countless meetings and discussions between different parliamentary committees and subcommittees, Law 189 on Financial Interest Disclosure and Punishing Illicit Enrichment (hereafter the 2020 Law on Illicit Enrichment) was passed by parliament on 30 September 2020, and published in the Official Gazette just over two weeks later, on 16 October.¹¹² The 2020 Law on Illicit Enrichment is a significant improvement over the 1999 law in virtually all its aspects. However, given the improbable scenario that Lebanon's political elites will hold themselves accountable, it is doubtful whether this law will end up being applied to them. Indeed, there are concerns that the law could potentially be utilized in part by the same political elites to settle scores among themselves, as will be highlighted below. The main provisions of the 2020 Law on Illicit Enrichment are set out below in Table 8.¹¹³

¹¹² Akoum, R. (2020), *Dirasa muqarana bayn Qanoun Al Ithra' ghayr Al Mashrou' raqm 154, tarikh 27/12/1999 wa Qanoun al Tusreeh 'an al zimma al maliya wal masalih wa mu'aqabat al ithra' ghayr al mashrou' raqm 189, tarikh 16/10/2020* [Comparative study between the 1999 Illicit Enrichment Law and the 2020 Illicit Enrichment Law], Lebanese Transparency Association, https://www.slideshare.net/TransparencyLebanon/legal-study-illicit-enrichment-28-october-2020?fbclid=IwAR0CuO2GVhkmZLw9gkcOcCMg0J5J9vQo61jO_uKSl34Vw3uOegHgCyN0Bfl.

¹¹³ Law No. 189 on Financial Disclosure, Conflicts of Interest and Illicit Enrichment: http://www.csb.gov.lb/announcements/Law189_2020_csb.pdf.

Table 8. Key tenets of the 2020 Law on Illicit Enrichment

Article	Description
1	Based on the UNCAC definition, ‘public official’ is described as any person, elected or appointed, paid or unpaid, performing any kind of public function, be it directly for the state or for a company owned by the state. The definition excludes public officials in the fourth rank and below – i.e. the lowest ranks in the public administration – and lecturers in public schools, public vocational and technical institutes and the Lebanese University.
3	Financial disclosure forms must be submitted once every three years to the National Anti-Corruption Commission detailing all movable and immovable assets in the country and abroad, as well as all sources of income and shares owned in for-profit ventures or positions held in non-profit organizations. ¹¹⁴ Public officials who neither submit their financial disclosures nor provide any excuses will be arbitrarily dismissed from their functions, while late submissions will incur a penalty equivalent to 10 per cent of the official’s salary.
9	Public officials who submit fraudulent financial disclosures are punished with a prison sentence ranging from six to 12 months and a fine ranging from 10 to 20 times the minimum wage.
10	‘Illicit enrichment’ is defined, in accordance with the UNCAC definition, as any noticeable increase in wealth in a public official’s financial disclosure that cannot be justified by their regular salary.
12	Illicit enrichment-related complaints are to be submitted to the National Anti-Corruption Commission without a fee, and may or may not be accompanied by evidence documenting illicit enrichment. The relevant judicial authorities can immediately demand that the bank accounts and assets of the suspected official be frozen for a renewable period of six months.
14	Public officials found guilty of engaging in illicit enrichment are punished by a prison sentence ranging from three to seven years, as well as by a fine ranging from 30 to 200 times the minimum wage. The illicitly acquired funds are to be either returned to the rightful owners, or confiscated by the state.

Source: Law No. 189 on Financial Interest Disclosure and Punishing Illicit Enrichment, published on 22 October 2020 in Issue 41 of the Official Gazette. Available on the website of the Civil Service Board: http://www.csb.gov.lb/announcements/Law189_2020_csb.pdf.

The 2020 Law on Illicit Enrichment is a significant improvement over its predecessor for several reasons. Public officials must now submit detailed financial disclosure forms once every three years, which should, theoretically, make it much easier to detect instances of illicit enrichment. In addition, the process of submitting complaints is no longer defective by design, and potential whistle-blowers no longer have to pay exorbitant fees or provide evidence that criminal activity has taken place when submitting a complaint. On 16 November 2020, Prime Minister Hassan Diab issued Circulars 39¹¹⁵ and 40,¹¹⁶ which called on all public officials to abide by the 2020 Law on Illicit Enrichment and submit their financial disclosure forms within the deadlines and to the relevant authorities as stipulated by the law. However, complications remain in the way.

¹¹⁴ The 14-page financial disclosure form is available at: <https://omsar.gov.lb/getattachment/Anti-Corruption/Interest-and-Asset-Declaration/Assets-declaration-form-30-September-2020.pdf?lang=en-US>.

¹¹⁵ Prime Ministry, Circular 39/2020, available at: <http://www.pcm.gov.lb/arabic/subpg.aspx?pageid=18204>.

¹¹⁶ Prime Ministry, Circular 40/2020, available at: <http://www.pcm.gov.lb/arabic/subpg.aspx?pageid=18205>.

Shortly after the 2020 Law on Illicit Enrichment was ratified by parliament, controversy was generated when several media outlets repeated some of the claims made by MPs stating that the president, the prime minister, ministers, and MPs were to be exempted from the law's provisions, and that a constitutional amendment would be necessary in order for the law to apply to them.¹¹⁷ In fact, the law does not explicitly state whether these high-level officials are exempt or not, and determining whether they are will require a judicial interpretation.

Article 70 of the constitution states that parliament can impeach the prime minister or another minister, if guilty of high treason or breach of duty, by means of a two-thirds majority vote.

While the situation regarding the president is clear (Article 60 of the Lebanese Constitution states that the president can only be accused and tried for 'ordinary crimes' by a two-thirds majority vote in parliament, after which the president would face trial by the Supreme Court for the Prosecution of Presidents and Ministers), the situation regarding the Council of Ministers is somewhat hazier. Article 70 of the constitution states that parliament can impeach the prime minister or another minister, if guilty of high treason or breach of duty, by means of a two-thirds majority vote. In order to determine whether the ministers can be tried in front of ordinary courts – in other words, whether the illicit enrichment law applies to them – it must first be determined whether the original drafters of the constitution intended to give the prime minister and ministers the same kind of immunity enjoyed by the president, and whether engaging in illicit enrichment can be considered a 'breach of duty'. Unlike Article 60, Article 70 does not make a specific reference to 'ordinary crimes': hence, should the prime minister or another minister commit an ordinary crime, they would not enjoy the same particular immunity as the president. Article 11(a) of the 2020 Law on Illicit Enrichment stipulates that engaging in illicit enrichment is considered an ordinary crime, to be tried in front of civil courts; hence, the crime cannot be considered a breach of duty, and the minister implicated cannot be tried for it by parliament. As for MPs, they only enjoy immunity during active parliamentary sessions as per Article 40 of the constitution, and can be pursued for engaging in illicit enrichment outside of such sessions.¹¹⁸

However, even if such a judicial interpretation does prove that Lebanon's highest political officials, bar the president, can be tried for engaging in illicit enrichment, it is likely that MPs or ministers who were thus accused would argue (in a Machiavellian manner), that an amendment to the constitution is necessary for trial before ordinary courts – without actually specifying which articles must be amended.

¹¹⁷ Al Jadeed (2020), 'Murasilat Al Jadeed: iqrar qanoun al ithra' ghayr al mashrou' wa iqtisarihi 'ala al muwazzafin doun al mas'oulin min wuzara' wa ru'asa' li'anahu yatlub ta'dilan dusturiyan' ['Al Jadeed reporter: Passage of the Illicit Enrichment Law without encompassing ministers and presidents, as that would require a constitutional amendment'], 30 September 2020, <https://www.aljadeed.tv/arabic/news/local/3009202014>.

¹¹⁸ Akoum (2020), *Dirasa muqarana [Comparative study]*.

In early December 2020, just two months after the adoption of the new law, several cases of alleged illicit enrichment emerged. According to a claim made by LBCI, a local TV channel, a lawyer representing the Ministry of Justice discovered that 17 officials in the Ministry of the Displaced had, since 2000, amassed enormous real-estate assets that could not in any way be justified by their salaries.¹¹⁹ The case was transferred to the prosecutor general, whose office was reported in early 2021 to be studying how best to proceed – as this was the first occasion of the 2020 Law on Illicit Enrichment being applied – while caretaker Minister of the Displaced Ghada Shreim praised the judicial authorities for acting against corruption and called on them to speed up the process.¹²⁰

In addition, concerns over wealth alleged to have been acquired by eight senior former military officials have been raised in recent months. In September 2020, during a political talk show on another local TV station, OTV, a lawyer revealed what appeared to be a bank document, dating from 2015, which raised concerns about the finances of a former senior army officer.¹²¹ An investigation, undertaken by a military tribunal prosecutor following the revelation, escalated to include seven other senior military officials. All eight former officers have denied the charges brought forth against them.¹²² However, after the case had ‘shuffled through the labyrinth of Lebanon’s widely criticized judiciary’,¹²³ the country’s banking secrecy laws, coupled with the lockdown imposed in early January 2021 due to a spike in cases of COVID-19 in the country, appear to have halted further progress in the case, with the aforementioned lawyer expressing the view in late January that the case was ‘dead’.¹²⁴

While these recent cases can clearly be perceived – at least at first glance – as positive developments in the fight against corruption in Lebanon, there are several potential caveats. The fact that the 2020 Law on Illicit Enrichment allows any individual to submit a complaint against a public official without having to provide evidence or proof of wrongdoing could lead the judiciary to ‘drown’ in illicit enrichment cases. In addition, concerns have been raised that complaints might potentially be made about a public figure at least partly on the basis of that person’s political affiliations: as such, if it were to be utilized even partly as a result of political considerations, the law might be rendered less effective.¹²⁵

There is much to commend in the 2020 Law on Illicit Enrichment. The financial disclosure forms that public officials must submit are exhaustive and must be submitted periodically, which allows for investigations that are better able

¹¹⁹ LBCI (2020), ‘Ithra’ ghayr mashrou’ fi wizarat al muhajjarin wal dawle tadda’i ‘ala muwazafiha’ [‘Illicit Enrichment in the Ministry of the Displacement: The state files lawsuits against its employees’], 7 December 2020, <https://www.youtube.com/watch?v=wENgj1FVmEs>.

¹²⁰ Al Jadeed (2020), ‘Da’wa al ithra’ ghayr al mashrou’ bi haqq 17 muwazzafan fi wizarat al muhajjarin w al wazira tashrah’ [‘Illicit Enrichment lawsuit against 17 employees of the Ministry of the Displaced, and the minister explains’], 5 December 2020, <https://www.youtube.com/watch?v=RYz0E0iR47s>.

¹²¹ Szakola, A. (2021), ‘What’s behind the case against Jean Kahwagi, and how a judicial maze and banking secrecy may derail the probe’, *L’Orient Today*, 21 January 2021, <https://today.lorientlejour.com/article/1248895/whats-behind-the-case-against-jean-kahwagi-and-how-a-judicial-maze-and-banking-secrecy-may-derail-the-investigation.html>.

¹²² Ibid.

¹²³ Ibid.

¹²⁴ Ibid.

¹²⁵ Diab, Y. (2020), ‘Al qada’ al lubnani yaghraq fi malaffat “al ithra’ ghayr al mashrou” [‘The Lebanese judiciary drowns in “Illicit Enrichment” cases’], *Asharq Al Awsat*, 6 December 2020, <https://aawsat.com/home/article/2666486/القضاء-اللبناني-يغرق-في-ملفات-«الإثراء-غير-المشروع»>.

to uncover cases of illicit enrichment. However, the country's highest public officials – namely the president, the cabinet and MPs – may well remain outside the purview of the new legislation, while there are concerns that the future utilization of the law may be motivated in part by political considerations. While the impact of the law is difficult to judge at this early stage, it is not apparent whether it will be able to curb corruption effectively – particularly if it were to be used to satisfy political motives.

The National Anti-Corruption Strategy

The fact that Lebanon's ruling elites are custodians of the country's broad anti-corruption strategy constitutes another major hurdle to overcome in its implementation. Governments that are intent on fighting corruption often adopt strategies that provide an overarching framework to guide anti-corruption efforts. Such strategies include a diagnosis of the problems leading to corruption, and a set of concrete recommendations that the executive, legislative and judicial branches must take into account in order to stamp out corruption in the public sector.¹²⁶ Governments that adopt such frameworks usually have the political will to fight corruption effectively, and they make good governance the norm in their country's public sector. In May 2020, Lebanon became armed with such a structure, in the form of the National Anti-Corruption Strategy 2020–2025. Yet, given the lack of political will to implement anti-corruption laws and ensure good governance, and the fact that the country's political elites are the ostensible custodians of the strategy – the same political elites who are unlikely to hold themselves accountable – the prospects for the success of Lebanon's anti-corruption strategy are grim.

The roots of Lebanon's current anti-corruption strategy can be traced back to December 2011, when the incumbent prime minister, Najib Mikati, passed Decisions No. 156 and 157, the first of which established a Ministerial Anti-Corruption Committee headed by the prime minister and comprising a number of other ministers, and the second establishing a technical committee to support the ministerial committee. The technical committee was headed by the minister of state for administrative reform and consisted of representatives from several public bodies. These two committees were tasked with preparing an anti-corruption strategy, with the assistance of the UN Development Programme (UNDP).

Between 2012 and 2017, sub-committees for specific aspects of the strategy were formed to assess gaps within existing Lebanese anti-corruption laws and evaluate them in the light of international standards. Interviews and meetings were held with public officials and representatives from the private sector and civil society, and on 27 April 2017 a draft of the strategy was presented to the Ministerial Anti-Corruption Committee, which requested an executive plan. OMSAR, in collaboration with UNDP,

¹²⁶ Fisman and Golden (2017), *Corruption: What Everyone Needs to Know*.

prepared an executive plan detailing key objectives.¹²⁷ On 24 April 2018, the strategy and its executive plan were presented at a conference hosted by the incumbent Minister of State for Administrative Reform, Inaya Ezzedine, who described the strategy's implementation as the first step towards rebuilding trust between Lebanese citizens and the state.¹²⁸ However, with parliamentary elections scheduled to take place a few weeks later in May, neither document could be formally adopted by what was then a caretaker government. The strategy and its executive plan were further refined by OMSAR during the terms of the subsequent two governments,¹²⁹ before being formally adopted by the Council of Ministers on 12 May 2020,¹³⁰ hence satisfying one of the pledges made by Prime Minister Hassan Diab in a ministerial statement delivered three months earlier, in February.¹³¹

The National Anti-Corruption Strategy and its executive plan constitute a comprehensive document that serves as a framework for anti-corruption efforts in Lebanon in the short, medium and long terms.¹³²

The first section provides a definition of corruption by referencing the UNCAC and the Anti-Corruption Commission Law, then presents a complex, multidimensional diagnosis of corruption in Lebanon, illustrated with specific instances and international indicators to highlight its widespread character. In its diagnostic section, the strategy lists political factors (political sectarianism, related governmental malpractices and lack of electoral reforms), economic factors (the bureaucratic reinforcement of bribery in order to access basic services), social factors (societal views on corruption that tend to see the phenomenon as acceptable), legislative factors (the improper implementation of anti-corruption laws, and major gaps in existing legislation) and administrative factors (the outdated and overly hierarchical nature of the public sector; the shortage of skills among public officials; the absence of effective monitoring and oversight bodies due to underfunding and understaffing; the low wages paid to public officials, which trigger the solicitation of bribes; and the absence of a merit-based system of appointment and promotion in the public sector).

The second section details the three goals of the strategy: (1) to enhance transparency, (2) to enforce accountability, and (3) to stop impunity. These goals are translated into seven outcomes, each with measurable outputs.¹³³ These are summarized in Table 9.

¹²⁷ For a more detailed overview of the process that led to the preparation of the National Anti-Corruption Strategy, see pp. 10–14 of the National Anti-Corruption Strategy 2020–2025, available at: <https://www.omsar.gov.lb/getattachment/Anti-Corruption/National-Anti-Corruption-Strategy/strategy.pdf?lang=ar-LB>.

¹²⁸ Daily Lebanon (n.d.), 'Tueni atlaq istratijiyya mukafahat al fassad... nahwu mustaqbalin afdal' ['Tueni releases the Anti-Corruption Strategy... towards a better future'], <http://dailylebanon.net/?p=6854>.

¹²⁹ Rizk, M. (2020), '“Al istratijiyya al wataniyya li mukafahat al fassad”: lijan turith lijanan' [“The National Anti-Corruption strategy”: Committees inherit committees'], *Al Akhbar*, 19 May 2020, <https://al-akhbar.com/Politics/288853>.

¹³⁰ OMSAR (2020), 'Iqrar al istratijiyya al wataniyya li mukafahat al fassad' [Approval of the National Anti-Corruption Strategy], 13 May 2020, <https://www.omsar.gov.lb/Media/News/اخبار/٢٠٢٠/dsfdsfdsf>.

¹³¹ The ministerial statement is available at: <http://www.pcm.gov.lb/Library/Images/Hok76Ministers/w76n.pdf>.

¹³² Government of Lebanon (2020), 'National Anti-Corruption Strategy 2020–2025', 12 May 2020, <https://www.omsar.gov.lb/getattachment/Anti-Corruption/National-Anti-Corruption-Strategy/strategy.pdf?lang=ar-LB>.

¹³³ The outcomes, outputs and their respective indicators can be seen in the annex of the National Anti-Corruption Strategy 2020–2025, presented in the form of a matrix. See pp. 55–82 of the strategy, available at: <https://www.omsar.gov.lb/getattachment/Anti-Corruption/National-Anti-Corruption-Strategy/strategy.pdf?lang=ar-LB>.

Table 9. The outcomes and outputs of the National Anti-Corruption Strategy

Outcome	Outputs
1 Properly implemented anti-corruption laws in line with international standards	1.1 An established and effective National Anti-Corruption Commission
	1.2 An effective system for fighting illicit enrichment
	1.3 A properly implemented law to protect whistle-blowers
	1.4 An effective system to combat conflicts of interests
	1.5 A properly implemented law to ensure the right of access to information
	1.6 An effective system for retrieving stolen public funds and assets
	1.7 Periodic reviews of the implementation (or lack) of anti-corruption laws
2 Higher levels of integrity in the public sector	2.1 Responsibilities of public officials in the public sector are clearly specified in a modern bureaucratic framework
	2.2 Application of standards of integrity and transparency in the appointment, promotion and benefit provision of public officials
	2.3 Promoting ethical behaviour in the public sector
	2.4 Enhancement of the Civil Service Board's effectiveness and independence
3 A public procurement system that is less prone to corruption	3.1 The public procurement system is made more transparent and competitive
	3.2 Establishment of clear mechanisms for monitoring and overseeing all stages of the public procurement system
	3.3 Empowerment of the Central Tender Board (in Arabic, <i>idarat al munaqasat</i>) to limit corruption in the public procurement system
	3.4 Adoption and implementation of a new law to regulate the public procurement system, based on international standards
4 A judicial branch that is more capable of fighting corruption	4.1 Enhancement of the judicial branch's independence, as per international standards
	4.2 Support for judges' integrity to increase trust in the judicial branch
	4.3 Ensuring the transparent operation of courts and their affiliated administrations
	4.4 Ensuring the capacities of judges to pursue corruption-related crimes are of the highest standard

Outcome	Outputs
5 Monitoring agencies rendered more specialized and effective in the fight against corruption	5.1 Modernization and capability enhancement of the Central Inspection Board to detect and fight corruption
	5.2 Modernization and capability enhancement of the Higher Disciplinary Committee to detect and fight corruption
	5.3 Modernization and capability enhancement of the Court of Accounts to detect and fight corruption
	5.4 Proper implementation of the law establishing the office of Ombudsman of the Republic (in Arabic, <i>waseet al jumhuriyya</i>)
	5.5 Improvement of internal auditing within public sector bodies
	5.6 Systematizing cooperation and coordination among the state's monitoring agencies
6 A society enabled to participate in spreading a culture of integrity	6.1 Citizens are more aware of the negative impact that corruption has on their lives and of their role in fighting it
	6.2 Youth are equipped with the values of integrity
	6.3 Non-governmental organizations (including unions, religious establishments and civil society organizations) are more capable of engaging in anti-corruption activities and of spreading a culture of integrity
	6.4 Journalists are more capable of shedding light on instances of corruption and efforts made to combat it
	6.5 Establishment of a national indicator for measuring corruption and periodic publication of results
7 Measures to prevent corruption are integrated at the sectoral level	7.1 Interactions between public bodies and beneficiaries are simplified and rendered more transparent
	7.2 Integration of methods and tools to combat corruption within public bodies
	7.3 Reduction of the risks of corruption in specific, prioritized sectors (the petroleum sector, the banking sector, customs etc.)
	7.4 The private sector is an active partner in the fight against corruption

Source: Government of Lebanon (2020), 'National Anti-Corruption Strategy 2020–2025', 12 May 2020, <https://www.omsar.gov.lb/getattachment/Anti-Corruption/National-Anti-Corruption-Strategy/strategy.pdf?lang=ar-LB>.

Despite being a long time in preparation, the strategy is a useful framework for guiding anti-corruption efforts in the country. It creates a space for anti-corruption advocates – be it in the public sector or civil society – to come together and ensure that it is properly implemented through the monitoring of the executive plan.¹³⁴ It provides an accurate diagnosis of the problem, and a functional vision for the future of Lebanon.

¹³⁴ Remarks made by Arkan El Siblani, Director of UNDP's Anti-Corruption Project in the Arab Region, in a webinar hosted by the May Chidiac Foundation on 28 September 2020. The webinar is available at: https://www.facebook.com/watch/live/?v=804969516710751&ref=watch_permalink.

While the National Anti-Corruption Strategy is a very comprehensive document with a clear executive plan, many are worried (with justification) that it will remain nothing but ‘ink on paper’, especially given Lebanon’s desultory track record regarding the implementation of governmental strategies that promise to make grand changes in the public sector. As far back as April 2018, the release of the first version of the National Anti-Corruption Strategy was met with cynicism, as it was difficult to fathom how a political class enmeshed in corruption would actually implement an anti-corruption strategy and hold itself accountable.

One may justifiably continue to question the extent to which a political class that is widely perceived to have turned the Lebanese state into a vehicle for self-enrichment, nepotism and embezzlement, would be willing to properly implement an anti-corruption strategy.¹³⁵ Furthermore, an analysis of the similarities between the original (2018) and revised (2020) versions of the strategy concluded that the 2020 strategy may have been adopted less as a reflection of a genuine political will seeking to stamp out corruption, and more as a ‘carrot’ to be dangled in front of the international community to attract foreign loans and grants. It may also have been adopted in an attempt to quell public anger following the uprisings of October 2019 and give the impression that anti-corruption efforts are being undertaken.¹³⁶

The resignation of the government of Prime Minister Hassan Diab in August 2020 is a blow to the National Anti-Corruption Strategy. Not only was that government the one to formally adopt the strategy, but its resignation also meant that the strategy lost a firm supporter in the shape of Dimyanos Kattar, the former environment minister and minister of state for administrative reform. Kattar had pushed for the strategy’s formal adoption by the Council of Ministers and, following its adoption, had made several efforts to meet with CSOs¹³⁷ as well as student representatives¹³⁸ to highlight the government’s commitment to work with the public towards realizing the strategy’s implementation.

In the absence of Kattar’s intra-governmental support for the 2020 strategy, one may wonder whether the next government to be formed will be as adamant about fighting corruption and ensuring that the strategy is properly implemented.

¹³⁵ Tarraf, H. (2018), ‘Mashrou’ al istratijiyya al wataniyya li mukafahat al fassad: al ‘ibra daiman fi al tanfiz’ [‘The National Anti-Corruption Strategy project: The lesson is in its implementation’], *Al Akhbar*, 18 June 2018, <https://al-akhbar.com/Capital/252225>.

¹³⁶ Rizk (2020), “Al istratijiyya al wataniyya li mukafahat al fassad”.

¹³⁷ El Nashra (2020), ‘Kattar: al mujtama’ al madani sharik fi tahqiq ahdaf al istratijiyya al wataniyya li mukafahat al fassad’ [‘Kattar: Civil society is a partner in achieving the goals of the National Anti-Corruption Strategy’], 9 July 2020, <https://www.elnashra.com/news/show/1428540/اهداف-الاستراتيجية-تحقيق-شريك-المدني-شريك-تحقيق-اهداف-الاستراتيجية>.

¹³⁸ Notre Dame University (2020), ‘NDU students meet with OMSAR Minister to discuss anti-corruption measures’, 4 August 2020, <https://www.ndu.edu.lb/news-and-events/news/ndu-students-meet-with-omsar-minister-to-discuss-anti-corruption-measures>.

05 Conclusion and recommendations

Given Lebanon's socio-economic crisis, concrete anti-corruption measures must be prioritized, implemented and monitored by the Lebanese government, civil society and the international community, as these are core components of any recovery plan for the country.

As Lebanon continues to endure a multifaceted collapse, with UN data indicating that more than half of the population had fallen below the poverty line by May 2020,¹³⁹ and with COVID-19 infection rates rising sharply in January 2021 (and remaining high for several months thereafter), confronting corruption has become a matter of survival for the Republic of Lebanon. Venal corruption and deliberate mismanagement of the public sector since the end of the civil war have brought about the current sorry state of affairs. The international community, which had long bailed out Lebanon's corrupt political class, has made it clear in recent years that no funds will be provided to the country if serious reforms and anti-corruption initiatives are not implemented.¹⁴⁰ Thus, Lebanon is truly at a crossroads: it must choose to pursue systemic reforms and the full implementation of anti-corruption laws, or must accept the country's collapse.

This research paper has argued that despite the stark novelty that the recently passed anti-corruption laws and the National Anti-Corruption Strategy constitute in Lebanon's political landscape, these are likely to remain poorly implemented – due not only to weak state infrastructure and the lack of an independent judiciary,

¹³⁹ United Nations Economic and Social Commission for Western Asia (2020), 'ESCWA warns: more than half of Lebanon's population trapped in poverty', 19 August 2020, <https://www.unescwa.org/news/Lebanon-poverty-2020>.

¹⁴⁰ Nakhoul, S. and Irish, J. (2020), 'Analysis: no 'free lunch' for Lebanon any more, donor states warn', Reuters, 17 November 2020, <https://www.reuters.com/article/lebanon-crisis/analysis-no-free-lunch-for-lebanon-any-more-donor-states-warn-idUSL8N2I30DU>.

but also to the systemic nature of corruption in Lebanon and the fact that the same political class that has led the country to the current collapse is ostensibly in charge of implementing these laws and the overarching anti-corruption strategy.

Nonetheless, this paper proposes several recommendations directly and indirectly linked to the fight against corruption, addressing them to different stakeholders, with the hope that they could lead to a reduction in corruption in Lebanon and to the proper implementation of the anti-corruption laws and strategy detailed above.

Recommendations to the Lebanese government

- **Demonstrate commitment to the National Anti-Corruption Strategy.** Any government that is formed must reaffirm its commitment to the National Anti-Corruption Strategy formally adopted by the government of Prime Minister Hassan Diab in May 2020. Concrete steps towards the strategy's implementation must be made. This particularly entails the proper implementation of the recently passed anti-corruption laws as well as enacting laws to ensure the independence of the judicial branch.
- **Prioritize the National Anti-Corruption Commission.** The establishment of the National Anti-Corruption Commission must be prioritized, because it plays an integral role in ensuring the implementation of anti-corruption laws and holding corrupt public officials accountable. Any forthcoming government must pressure the relevant entities to submit the names of potential appointees to the commission and must then proceed without delay in the formation of the commission. The government should then ensure to provide it with sufficient funding and resources to fulfil its role.
- **Build on existing open data platforms.** One of the actions stipulated in the Digital Transformation Strategy unveiled by OMSAR in late 2018 was the establishment of a governmental open data platform, through which public bodies would publish all types of data, and an easy-to-use prototype of this platform was created, targeted at government entities and citizens alike.¹⁴¹ In 2020, the Central Inspection Board developed an official governmental open data platform in partnership with the private sector and international organizations. This platform, known as IMPACT (Inter-Ministerial and Municipal Platform for Assessment Coordination and Tracking),¹⁴² presents a promising opportunity, as it allows public bodies to share and publish data on a wide array of issues, facilitating citizens' access to information, and promoting inter-governmental collaboration. The government must build on this platform, so that eventually all governmental institutions use it to publish all sorts of qualitative and quantitative data they hold.

¹⁴¹ The presentation given by OMSAR software engineer Mohamad Chehab in which he presents the prototype during the conference launching the 2018 Digital Transformation Strategy is available at: <https://www.facebook.com/2026581097382048/videos/2043760172330807>.

¹⁴² The IMPACT platform is available at: <https://impact.cib.gov.lb/home/about>.

- **Guarantee freedom of expression and assembly.** In light of the increasing constraints that have been imposed by Lebanon’s political elites on civil liberties and freedom of speech, the Lebanese government, particularly the ministries of interior and defence, must take the appropriate measures to ensure that freedom of speech and assembly are guaranteed and protected.

Recommendations to the international community

- **Transparent funding processes.** Since the end of the civil war, Lebanon has been the recipient of billions of dollars in foreign grants and loans, targeting several sectors. However, much of the aid provided by donor agencies, be it to the Lebanese government or to non-governmental partners, has been poorly coordinated and provided in a manner that reinforces neither transparency nor accountability.¹⁴³ Such opacity in aid distribution processes is problematic, as it leads to duplication of efforts and facilitates corruption. Donor agencies, foreign governments and international financial institutions providing grants, loans or any type of financial or in-kind assistance to Lebanon must uphold the highest standards of transparency by making all their data easily accessible and sharing it with other stakeholders, such as media outlets, CSOs and fellow donors. This is particularly crucial at a time when, following the August 2020 blast at the Port of Beirut, much financial and in-kind aid has flooded into Lebanon, with some instances of corruption having already been detected.
- **Support for monitoring and oversight agencies.** Lebanon’s monitoring and oversight agencies have long been underfunded, understaffed and lacking in terms of human capacities. Donors should establish partnerships with these agencies and jointly devise programmes to strengthen their capacities, in line with the objectives of the National Anti-Corruption Strategy and all the while maintaining the highest standards of transparency when providing such assistance, as stated in the previous recommendation.
- **Support for independent media outlets and watchdog groups.** Over the last few years, numerous internet-based alternative media outlets and watchdog groups have emerged in Lebanon, providing excellent coverage of political and socio-economic developments in the country.¹⁴⁴ Many of these outlets have significantly increased their output following the uprisings of October 2019. Donors and international organizations should continue supporting these outlets in their efforts to provide critical coverage of political developments in the country and to uncover corruption.

¹⁴³ Ayoub, B. and Mahdi, D. (2018), ‘Making Aid Work in Lebanon’, Oxfam and the Lebanese Center for Policy Studies, Briefing Paper, https://oi-files-d8-prod.s3.eu-west-2.amazonaws.com/s3fs-public/file_attachments/bp-making-aid-work-lebanon-050418-en.pdf.

¹⁴⁴ For a list of some of these alternative media outlets, see Lteif, D. (2020), ‘The Lebanon Revolution Takes on the Media: A Resource on Alternative News Outlets’, *Jadaliyya*, 1 July 2020, <https://www.jadaliyya.com/Details/40379>.

Recommendations to civil society

- **A civil society-led anti-corruption front.** Lebanon's civil society has long played an active role in the fight against corruption, and many of the anti-corruption laws this research paper has detailed would not have existed without the active participation and pressure exerted by CSOs. This has been particularly notable following the uprising of October 2019. The COVID-19 pandemic did not stop CSOs from being active, as many switched their efforts online and held countless webinars on anti-corruption related issues. France's international technical cooperation agency, Expertise France, has recently partnered with local CSOs and academic institutions to fund and support the Anti-Corruption and Transparency (ACT) project. In accordance with one of ACT's objectives, the *Dod El Fasad* (Against Corruption) campaign was launched in early December 2020.¹⁴⁵ The disparate Lebanese CSOs and activists who are involved in promoting good governance and anti-corruption efforts should coalesce around ACT and the Against Corruption campaign, and form a concomitant front to unify their efforts and to systematically monitor and advocate for the implementation of the National Anti-Corruption Strategy and the anti-corruption related laws.

The anti-corruption front should release periodic reports to inform public opinion and the international community about governmental anti-corruption work progress (or the lack thereof).

Members of this front should each focus on their area of expertise (for example, the implementation of the Law on the Right to Access Information; public procurement reforms; good governance at the local level; transparency in the petroleum sector; governmental efforts reducing free speech, and so on). The anti-corruption front should release periodic reports to inform public opinion and the international community about governmental anti-corruption work progress (or the lack thereof). It is crucial that the different members of this front share experiences and best practices with one another, and it is important to ensure that it has a very prominent and active presence on all social media platforms. Establishing such a coalition is no mean feat. It requires dedication, commitment, sacrifices, open channels of communication and collaboration, as well as setting personal differences aside, all of which is made more difficult in the context of an unprecedented socio-economic collapse. While it is worth noting that the National Anti-Corruption Strategy calls for the establishment of a government-supported national network of activists, CSOs and trade unions, Lebanon's civil society should not have to wait for the government's encouragement to establish such a front.

¹⁴⁵ The ACT campaign's website is available at: <https://www.dodelfasad.com/en/about-act>.

- **Promote the Law on the Right to Access Information.** The Law on the Right to Access Information is a key tool for uncovering corruption. Much effort has already been dedicated to promoting the usage of the law by journalists and civil society. These efforts must continue and expand – perhaps by the civil society-led anti-corruption front proposed above – to ensure that more journalists, researchers, academics and everyday citizens are aware of the law’s existence and have the knowledge and skills to put it to proper use. Non-compliant public bodies must be exposed, while pressure must be exerted on public bodies to adopt systematic measures to automatically publish information and documents, rather than wait to receive ATI requests.
- **Protect free speech.** Lebanon’s civil society should continue its efforts towards defending freedom of expression and documenting abuses by the state. In early July 2020, an alliance to defend free speech was launched, composed of several leading CSOs alongside the Alternative Press Syndicate.¹⁴⁶ In the face of increasing clampdowns on civil liberties in Lebanon, it is crucial that this alliance perseveres.

¹⁴⁶ Legal Agenda (2020), ‘Tahalof jadid lil difa’ an hurriyat al ta’bir fi Lubnan’ [‘New alliance to defend freedom of expression in Lebanon’], 14 July 2020, <https://legal-agenda.com/لب-عن-حرية-التعبير-في-لبنان>.

Annex

Box 1. The Chehabists' attempts at administrative reform

Fuad Chehab assumed the presidency in September 1958, at a critical juncture in Lebanon's modern history. In the context of the Cold War and regional geopolitical tensions, Lebanon had just experienced a short civil war between armed groups supporting former president Camille Chamoun and left-leaning insurrectionists, sympathetic to Egyptian President Gamal Abdel Nasser and the newly established United Arab Republic, who demanded an end to socio-economic inequalities and efforts to resolve their sectarian grievances. Lebanon's public sector had broken down entirely, and little sense of national unity existed among the country's citizens.¹⁴⁷ During his six years in office, Chehab exerted significant efforts to improve the structure and function of the public sector, especially in rural areas. His administration passed 162 legislative decrees in its first year in office to speed up administrative reform – an unprecedented move in Lebanon's history.¹⁴⁸ Key reforms included the establishment of the Civil Service Board to ensure merit-based recruitment of public servants, and the establishment of the Central Inspection Board (in Arabic, *al tifteesh al markazi*), for monitoring public servants' performance and service delivery.

Since Chehab, 'there has not been any serious attempt' at modernizing the Lebanese public sector.¹⁴⁹ These administrative reforms, alongside the Chehabists' efforts at implementing developmental projects across the entirety of Lebanon, sought to provide a modicum of social justice and equality among the Lebanese population.

Despite their well-meaning intentions, Chehab and his allies were unsuccessful in transforming the Lebanese public sector. On the one hand, they faced stiff resistance from the country's sectarian political elites and their oligarchic allies in the private sector. On the other, Chehab's reliance on the army's military intelligence branch, the notorious *Deuxième Bureau* (Second Bureau), which clamped down on freedom of speech and silenced journalists, garnered much criticism among wide swathes of the population and the intelligentsia.

¹⁴⁷ Salibi (1966), 'Lebanon under Fuad Chehab 1958–1964'.

¹⁴⁸ Dagher, A. (1995), *L'Etat et l'économie au Liban: Action Gouvernementale et Finances Publiques de l'Indépendance à 1975* [*The State and the Economy in Lebanon: Governmental actions and public finances from independence until 1975*], Beirut: Centre d'études et de recherches sur le Moyen-Orient contemporain.

¹⁴⁹ Antoun, R. (2008), *Towards a National Anti-Corruption Strategy*, United Nations Development Programme and Lebanese Transparency Association, p. 21, http://www.undp.org.lb/communication/publications/downloads/Final_book_en.pdf.

In April 1973, shortly before his death, Chehab confided in one of his close associates: ‘The sectarian politicians are continuing to consider the state as a milk cow and only care about their personal, sectarian and regional interests, and do not realize that the ground is shaking underneath them; they will wake up one day to see the revolution everywhere and the oppressed will kick them out of their own homes and beat them in the streets...’¹⁵⁰

Box 2. OMSAR and the tortuous path towards administrative reform in post-war Lebanon

Established in 1993 with the goal of reforming the Lebanese public administration and planning long-term institutional development, OMSAR has been an integral component of the post-war Lebanese government machinery. Between 1993 and 1997, OMSAR formed several partnerships with international organizations and foreign donors: it established a Technical Cooperation Unit (TCU) and an Institutional Development Unit, and launched a National Administrative Rehabilitation Program (NARP) aimed at rehabilitating the Lebanese public sector’s essential functions.¹⁵¹

Unlike regular ministries, OMSAR is an office headed by a minister of state, which means that it plays a purely consultative role, with no entitlement to make executive decisions or impose change on other public sector bodies. When attempting to implement the NARP – which included the introduction of ICT practices in government – OMSAR faced stiff resistance, and sometimes outright hostility. The Lebanese public sector tended to see OMSAR ‘as a tiresome upstart, an alien body, implanted within the Lebanese public sector’.¹⁵² In his memoirs, former OMSAR minister Bechara Merhej recalls presenting to a high-ranking official a comprehensive strategy for reforming and modernizing the Lebanese public sector by the year 2010. The unnamed high-ranking official told him dismissively that the strategy would be discussed *in 2010*.¹⁵³

While OMSAR produced valuable research, its *modus operandi* failed to win political and bureaucratic support from the Lebanese political establishment, and it was soon turned ‘into a donor-funded think tank’ rather than a ministry implementing genuine reforms and electronic government (e-government) procedures.¹⁵⁴

The Lebanese public sector remains poorly run and equipped to this day. The OMSAR-led e-government initiatives never materialized fully, due to a lack of support from senior political elites. In 2005, the then director of the TCU, Raymond Khoury, stated that ‘the concept of e-government will remain inapplicable as long as there

¹⁵⁰ Al Jisr, B. (2000), *Fuad Chehab: Thalika Al Majhoul [Fuad Chehab, that unknown]*, p. 137, Beirut: Sharikat Al Matbou’at lil Tawzi’ wal Nashr (translated by the author).

¹⁵¹ Ibid.

¹⁵² Ibid., p. 284.

¹⁵³ Merhej, B. (2004), *Hurras Al Haykal: Tajribati ma’ al islah al idari fi Lubnan [Guardians of the Temple: My experience with administrative reform in Lebanon]*, p. 20, Beirut: Riad El-Rayyes Books.

¹⁵⁴ El-Zein and Sims (2004), *Reforming War’s Administrative Rubble in Lebanon*, p. 286.

is no political will/political decision.¹⁵⁵ Ten years later, the adoption of e-government was observed to be progressing with difficulties due to the absence of a strong ICT infrastructure, an adequate and enabling legal framework and a concrete action plan.¹⁵⁶ Today, Lebanon ranks at a lowly 127th place out of 193 countries in the most recent (2020) edition of the UN's E-Government Survey.¹⁵⁷

Box 3. The Port of Beirut

On 4 August 2020, a powerful explosion detonated in the Port of Beirut killing more than 200 people and leaving hundreds of thousands injured or rendered homeless, in addition to the untold infrastructural damage. The explosion was caused by the ignition of around 2,750 tonnes of ammonium nitrate that had apparently been stored unsafely in one of the port's hangars over a period of six years. Despite a promise from President Michel Aoun for a transparent inquiry over the explosion,¹⁵⁸ and despite an accompanying pledge by the interior minister, in the immediate aftermath of the blast, that the investigation would take only five days and that all the culprits would be held accountable,¹⁵⁹ the ongoing investigation has garnered significant criticism, amid concerns that it has been carried out in a non-transparent manner, focusing on the relatively low-ranking culprits, rather than any high-level officials who might have been aware of the stockpiling of the dangerous chemicals and did not act to have them removed.¹⁶⁰

The blast has revealed a deeper story about widespread corruption in the Port of Beirut, one of the key arteries of the Lebanese economy. On 31 December 1990, after the civil war had ground to a halt, a 30-year concession to a private joint-stock company (under which the latter had managed the port since 1960) expired. The country's warlords-turned-politicians and the new entrants into the country's political scene bickered among themselves as they sought to determine new arrangements for the management of this highly lucrative public asset. Eventually, the port was subjected to a division of spoils (*muhasassa*, in Arabic): its assets were apportioned,

¹⁵⁵ Varin, C. (2006), 'Le "e-gouvernement" au Liban: clé de voûte d'un state building durable?' ['E-government in Lebanon: Keystone of a durable state-building?'], in Gonzalez-Quijano, Y. and Varin, C. (eds) (2006), *La société de l'information au Proche-Orient – Internet au Liban et en Syrie [Information Society in the Near East – Internet in Lebanon and Syria]*, p. 45, Beirut: Center d'études pour le monde arabe moderne, Université Saint-Joseph (translated by the author).

¹⁵⁶ Rizk, S. (2015), 'L'informatisation de l'administration, meilleur remède à la corruption?' ['Computerization of the public sector, best antidote to corruption?'], *Le Commerce du Levant*, 27 March 2015, <https://www.lecommerce.dulevant.com/article/24647-linformatisation-de-ladministration-meilleur-remede-la-corruption->.

¹⁵⁷ United Nations Department of Economic and Social Affairs (2020), *E-Government Survey 2020: Digital Government in the Decade of Action for Sustainable Development*, [https://publicadministration.un.org/egovkb/Portals/egovkb/Documents/un/2020-Survey/2020%20UN%20E-Government%20Survey%20\(Full%20Report\).pdf](https://publicadministration.un.org/egovkb/Portals/egovkb/Documents/un/2020-Survey/2020%20UN%20E-Government%20Survey%20(Full%20Report).pdf).

¹⁵⁸ LBCI (2020), 'President Aoun promises transparent inquiry into Beirut blast', 5 August 2020, <https://www.lbcgroup.tv/news/d/lebanon-news/539065/president-aoun-promises-transparent-inquiry-into-b/en>.

¹⁵⁹ LBCI (2020), 'Wazir al dakhiliya: al tahqiq bi infjar al marfa' sa yakoun shafafan wa sa yastaghriq 5 ayyam' ['Minister of Interior: Investigations over the Port explosion will be transparent and will take five days'], 5 August 2020, <https://www.lbcgroup.tv/news/d/Lebanon539102/وزير-الداخلية-التحقيق-بانفجار-المرفأ-سيكون-شفافا-و>.

¹⁶⁰ Human Rights Watch (2020), 'Lebanon: Flawed Domestic Blast Investigation', 22 October 2020, <https://www.hrw.org/news/2020/10/22/lebanon-flawed-domestic-blast-investigation>.

or divided up among the political elites. A 'temporary' management committee was established in 1993 and, except for changes in the committee's membership, the port administration remained unchanged until the explosion in August 2020.¹⁶¹

Lacking any appropriate legal framework for its functioning and for dealing with other state agencies, the Port of Beirut's entire management was 'left to the discretion and inclinations of politicians and officials involved', with some having labelled it as the 'illegitimate son of the state'¹⁶² or as 'Ali Baba's Cave',¹⁶³ in allusion to the popular folk tale featuring a den filled with stolen treasures.

As the port's legal status remained ambiguous, the temporary management committee was not subjected to any scrutiny or oversight from other state bodies, whether the Ministry of Finance or monitoring agencies such as the Court of Accounts (in Arabic, *diwan al muhasaba*) and the Central Inspection Board.¹⁶⁴ A study by parliament's General Directorate of Studies and Information revealed in December 2019 that the port's temporary committee had not provided the Ministry of Finance with any annual reports for several years.¹⁶⁵

The devastating blast at the Port of Beirut is a cautionary tale that highlights the very real consequences that can arise from the presence of what is perceived to be deeply entrenched corruption. When the country's main port functions in such a non-transparent and dysfunctional manner, with little to no oversight over the port's authorities or its activities, it seems almost inevitable that an industrial accident would occur, resulting in a humanitarian catastrophe.

Box 4. Public bodies used for private gains

While state institutions have frequently been used by Lebanon's political elites to distribute patronage and curry favour among their constituents, this practice dramatically increased in the era since the end of the civil war. The following provides an overview of two of the most notorious cases of the transformation by political elites of state institutions into vehicles for self-enrichment.

¹⁶¹ Leenders, R. (2020), 'Timebomb at the Port: How Institutional Failure, Political Squabbling and Greed Set the Stage for Blowing up Beirut', Arab Reform Initiative, 16 September 2020, <https://www.arab-reform.net/publication/timebomb-at-the-port-how-institutional-failure-political-squabbling-and-greed-set-the-stage-for-blowing-up-beirut>.

¹⁶² Ibid.

¹⁶³ Boutros, P. (2013), 'Marfa' Beirut... Anaber fassad wa ahwad fi qabdat al ahzab' ['Port of Beirut... Hangars of corruption and basins controlled by political parties'], *Al Joumhouria*, 25 October 2013, <https://www.aljoumhouria.com/ar/news/100772/مرفأ-بيروت-عناير-فساد-واحواس-في-قبضة-احزاب>.

¹⁶⁴ Al Sayyid, M. (2020), 'Marfa' Beirut: sandouq lubnan al aswad' ['Port of Beirut: Lebanon's black box'], *Ida2at*, 5 August 2020, <https://www.ida2at.com/beirut-port-lebanon-black-box>.

¹⁶⁵ Saibi, Y. (2019), 'Ithra' shakhsi 'daim' bi ghata' lijna mu'aqata: marfa' Beirut... magharat Ali Baba' ['Continuous personal enrichment covered by a temporary committee: The Port of Beirut... Ali Baba's Cave'], *Nidaa Al Watan*, 10 December 2019, <https://www.nidaalwatan.com/article/10708-إثراء-شخصي-دائم-بغطاء-لجنة-مرفأ-بيروت-مغارة-علي-بابا>.

The Council for Development and Reconstruction

The Council for Development and Reconstruction (CDR) was originally founded in 1977 to direct Lebanon's reconstruction, as the incumbent president and prime minister (respectively, Elias Sarkis and Salim Al Hoss) had envisaged a strong role for the state in the rehabilitation of the country's infrastructure. The CDR was given wide-ranging powers, which included drawing up studies and proposing laws, issuing 'administrative licenses and authorisation'¹⁶⁶ and hence bypassing other state entities, supervising 'all reconstruction projects under its care',¹⁶⁷ and procuring 'financing for all its projects, either from Lebanon or abroad, while being exempted from advance oversight by the court of accounts'.¹⁶⁸ Sarkis and Hoss came from the Chehabist tradition (see Box 1) and deliberately gave the CDR such powers in order to insulate it from 'interference by the old bourgeoisie or the militia leaders'.¹⁶⁹

As the civil war ended, the country's infrastructure was in dire need of rehabilitation, and the task fell to the CDR, which was by now firmly under the control of another prime minister, Rafiq Hariri, and his network of technocrats who had the legal, managerial, urban planning and engineering expertise to run it.¹⁷⁰ In the 1990s, the CDR was accused of various corrupt practices, such as 'violating tendering requirements, overspending projected costs, allowing illegal subcontracting, financing infrastructure facilities for private use, and contracting with companies under conditions of unbridled conflict of interest'.¹⁷¹ For instance, the CDR's performance in road-building and road-maintenance was perceived to be characterized by countless irregularities, heavily inflated costs, offering tenders to construction firms directly and indirectly affiliated with the political class, poor enforcement of contracts and an inability to penalize poor performance on the part of the contractors.¹⁷² Despite not being generally authorized to scrutinize the CDR's road rehabilitation projects, the Court of Accounts did undertake some examinations and 'registered serious irregularities in tendering and unwarranted increases in costs'.¹⁷³ A study published by the Lebanese Center for Policy Studies in July 2020 showed that between 2008 and 2018, of the 492 infrastructural projects for which the CDR managed funding, '60% of total CDR spending [...] was granted to only 10 companies'; out of total funding of \$3.17 billion, these 10 companies received \$1.9 billion, which suggests that the tendering process was not carried out on a competitive basis.¹⁷⁴ Given such evidence of inadequate governance and lack of transparency in the CDR, it is unsurprising that the state of Lebanon's infrastructure remains abysmally poor almost three decades after the civil war ended.

¹⁶⁶ Baumann, H. (2017), *Citizen Hariri: Lebanon's Neoliberal Reconstruction*, p. 62, New York and Oxford: Oxford University Press.

¹⁶⁷ Ibid.

¹⁶⁸ Ibid., pp. 62–63.

¹⁶⁹ Ibid., p. 62.

¹⁷⁰ Ibid.

¹⁷¹ Leenders, R. (2012), *Spoils of Truce: Corruption and state-building in Postwar Lebanon*, p. 51, Ithaca and London: Cornell University Press; Shams Ad-Din, M. (1999), *Magharat al 'Imar bi al haqa'iq wal arqam*, Beirut: Published by the author.

¹⁷² Leenders (2012), *Spoils of Truce*, p. 53.

¹⁷³ Ibid., p. 52.

¹⁷⁴ Atallah, S., Diwan, I., Haidar, J. L. and Maktabi, W. (2020), 'Public Resource Allocation in Lebanon: How Uncompetitive is CDR's Procurement Process?', Lebanese Center for Policy Studies, 23 July 2020, https://www.lcps-lebanon.org/publications/1595575975-cdr_article_july2020.pdf.

Ministry of the Displaced

As hundreds of thousands of Lebanese civilians were displaced during the civil war, it was only natural that the post-war government would seek to facilitate their return to their original homes and compensate them for whatever damages they incurred due to the fighting. A Ministry of the Displaced and a Central Fund for the Displaced were established in 1992, and some \$1.2 billion was spent between 1994 and 2005 to assist the displaced.¹⁷⁵ However, despite the enormous sums spent by the mid-2000s, many of the displaced had not been able to return to their original homes, many of which continued to be occupied by squatters, while numerous villages that had witnessed severe fighting remained shattered.

Several reports carried out by both the ministry and international organizations 'all concluded that corruption in the form of political patronage, favoritism, and bribery had helped to undermine the return program drastically'.¹⁷⁶ For instance, it has been claimed that some politicians used the central fund to provide large sums of money to their constituents based on bogus claims of displacement, and hence garner their electoral support.¹⁷⁷ In addition, when it came to the restoration and rehabilitation of damaged buildings, '[m]any examples suggest that claimants were compensated for damages to properties that never existed and that contractors were heavily overpaid for work under conditions of dubious contracting practices'.¹⁷⁸

The situation of the Ministry of the Displaced and its associated fund encapsulates how some state funds, ostensibly designated for the welfare of the public, could end up being embezzled and misused for the personal interests of the country's political establishment.

Box 5. Electricity in Lebanon: Decades of mismanagement and dysfunction

Lebanon's electricity sector is often presented as a prime example of chronic and widespread mismanagement, inefficiency, and concerns about allegations of corruption. Despite the transfer each year of billions of dollars to *Electricité du Liban* (EDL – the public utility tasked with generating electricity), power cuts in Lebanon are the norm. This has caused virtually all households in the country to resort to private electricity suppliers, disparagingly called the 'generator mafia', in order to access electricity on a 24-hour basis.¹⁷⁹ A number of the private generator operators have been reported to have had close ties with the political class, with both groups having an interest in maintaining the status quo in the country's power sector. This status quo – and the dysfunction and mismanagement inherent within it – have also caused countless losses and missed investment opportunities for Lebanon, due to the negative impact of electricity cuts and inadequate transmission infrastructure on the agricultural, industrial, and service sectors of its economy.

¹⁷⁵ Leenders (2012), *Spoils of Truce*, p. 64.

¹⁷⁶ *Ibid.*, p. 65.

¹⁷⁷ *Ibid.*

¹⁷⁸ *Ibid.*, p. 69.

¹⁷⁹ McDowall, A. (2019), 'Fixing Lebanon's ruinous electricity crisis', Reuters, 29 March 2019, <https://www.reuters.com/article/us-lebanon-economy-electricity/fixing-lebanons-ruinous-electricity-crisis-idUSKCN1RA24Z>.

Over many years, EDL has become overstaffed with low-skilled workers while lacking technical and managerial expertise. The company has long been impacted by political interference and vested interests and remains a weak public body, widely considered incapable of functioning properly and carrying out its mandate.¹⁸⁰ Even the long-awaited appointment by the Council of Ministers in July 2020 of a new EDL board of directors has drawn significant criticism, as its members were perceived as having been appointed primarily for their sectarian and political affiliations.¹⁸¹

Despite the billions of dollars that have been spent on the electricity sector since the early 1990s, Lebanon's population and businesses still do not have access to electricity on a daily, uninterrupted basis. With such chronic mismanagement, dysfunction and concerns over allegations of corruption, it is unsurprising that reform of the electricity sector is one of the major conditions imposed by the international community on the provision of development funding to Lebanon.

¹⁸⁰ For more information regarding EDL's performance, see the contribution of Jessica Obeid, Energy Public Policy Consultant and Fellow at the Lebanese Center for Policy Studies to an in-depth panel discussion on EDL and its mismanagement at a conference hosted by *Executive* magazine on 23 September 2020, available at: <https://www.facebook.com/ExecutiveMagazine/videos/3148978301867691>.

¹⁸¹ *Daily Star* (2020), 'EDL board appointments attract criticism', 7 July 2020, <https://www.dailystar.com.lb/News/Lebanon-News/2020/Jul-07/508641-cabinet-meets-to-talk-electricity-economy.ashx>.

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Cover image: Lebanese people hold their National flags and banners as they protest the corruption and garbage crisis in Beirut, Lebanon, on 12 March 2016.

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