

Policy Reforms for Increased Transparency, Accountability and good Governance in Lebanon

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ABSTRACT

Corruption is a broad concept that covers a wide range of practices and transactions. It is defined by Merriam-Webster as “inducement to wrong by improper or unlawful means (as bribery)” and by the Oxford English dictionary as “perversion or destruction of integrity in the discharge of public duties by bribery or favor”. The USAID anti-corruption strategy defines corruption broadly as “the abuse of trusted authority for private gain”.

Keywords: Corruption

Defining corruption was an important step to stand with as it could help delineating proofs and develop methods of measurement and later on assessments [1-2]. In reality, it's not an easy act since borders between licit and illicit behaviors are often blurred [3].

A framework best described and defined as the misuse of public office for private gain [4]. The UN (2001) [5] corruption assessment report on Lebanon was one of the earliest documents that illustrated starkly the scale of the corruption in the Lebanese Institutions and its devastating impact on the economy. It is estimated that the Lebanese state squanders over US\$1.5 billion per year as a result of pervasive corruption on all levels of government (nearly 10% of its yearly GDP) [6]. Likewise, the expansion of the Lebanese State role in the economy in the form of capital expenditure on reconstruction was highly vulnerable to corruption due to the magnitude of the projects involved, the multitude of intermediaries, and the different phases of implementation [7-10]. Reports from international agencies such as the World Bank, UNDP, LTA are too general but still helpful in becoming more aware of corruption ranking of Lebanon worldwide. (136th over 175 countries, LTA, 2014).

The contemporary world is carrying out a fierce battle against corruption that threatens development, stability and security in the national, regional and global levels where its direct cost is estimated at about 5% of the total of the world's Gross Domestic Product (World Economic Forum of 2008) [11] and may reach 17% in some countries (Asian Development Bank, 2007) [12]. Therefore, efforts were made in the recent years in order to confront corruption and reduce its risks and harms by establishing the principles of democratic governance, following the rules of good governance and carrying out more work to establish strict and unified standards that prevent its occurrence and prevent also

escaping from the punishment (Tables 1& 2).

In Lebanon, corruption afflicts almost all the fields of life whether public and private and reaches its highest level in the domains that are made up of public funds such as work deals, supplies and services carried out by public administrations and institutions and municipalities, in addition to the domains of customs and real estate taxes and fees, the sectors of electricity, water, oil, gas, telecommunications, health, environment and waste.

The relevant global indicators have confirmed that the local opinions have shown that most of the Lebanese are convinced that corruption is an epidemic that is spreading, expanding and striking strongly everywhere and along the area of the country, where for instance Lebanon has scored 28 points in the Corruption Perception Index [13] for the International Transparency in 2017 where its scale ranges between 0 for the more corrupted and 100 for the less corrupted. It has also scored 0.97 points on the Corruption Control Index for the World Bank in 2017 and which scale ranges between 2.5 points for the least corruption control and +2.5 points for the most controlled corruption which put Lebanon among the countries whose mark did not exceed the average of the Regional and International of these two indicators.

Measuring the cost of corruption is a hard and difficult process due to its hidden and complex nature and this challenge is getting worse in Lebanon due to the lack of clear and accurate data, statistics and standards. Noting the efforts made by some official, economic, syndicate and social bodies to try to measure some aspects of corruption in the public and private sectors including the declaration of a former Minister of Economy in 2016 [14] that the direct cost of corruption is about 5 billion US Dollars per year. If this number is correct, corruption causes waste of approximately 45% of the state's revenues, 27% of the budget, and 10% of the

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Table1: A- Supporting the role of the judiciary in fighting corruption.

Outputs	Work Fields	Time Span
A.1- Supporting the independence and integrity of the judiciary in accordance with International Standards	Preparing and approving a law to strengthen the independence of the judicial authority	Medium Term
	Reviewing and preparing codes of conduct that include judges, judicial assistants, and experts, and developing and disseminating guidelines for each of them	Short Term
	Establishing the necessary mechanisms for the effective implementation of the codes of conduct: configurations related to integrity - measures of encouragement - penalties and a periodic evaluation of the extent of implementation of these trainings.	Medium Term
	Update and support the Judicial Inspection Authority with the necessary human and technological capabilities.	Medium Term
	Adopting accurate scientific standards in the transfer of judges and applying a program of periodic transfers.	Short Term
	Fill in the vacant positions in the judicial system cadres.	Intermediate Term
	Maintaining the material and moral guarantees for judges and enhancing the resources of the Judges' Mutual Fund from unifying tariffs with other funds.	Short Term
	Awaiting the amendment of the Judicial Authority Law to establish that the concerned judges should not be transferred according to the decision of the Cabinet except based on specific objective criteria.	Short Term
	Developing and implementing modern systems for evaluating judicial work.	Short Term
	Adopting a transparent and fair system for the distribution of judicial committees of a judicial nature to judges.	Intermediate Term
	Issuing and publishing annual reports of the work of the judiciary.	Short Term
	Activating the publication of disciplinary measures to dismiss the violating judges.	Short Term
Enhancing the media and communication capabilities of the Supreme Judicial Council and the State Council.	Short Term	
A.2- Enhancing transparency in the administration of Courts and their Departments	Establishing a clear and integrated program for carrying out trial sessions, shortening the time between each of them, and amending legal texts that would speed up the completion of cases.	Short Term
	Controlling, activating and updating forensic systems, reconsider into the issue of diagnosis, giving solutions, and raising the value of examination.	Intermediate Term
	Improving the safe conditions of justice palaces and enhancing the security of judges and arrest places in justice palaces.	Short Term
	Establishing departments responsible for reception, information and guidance for citizens in the Palaces of Justice.	Intermediate Term
	Simplifying procedures, enhancing transparency, and assisting in managing the Register of Commerce.	Intermediate Term
Introducing information technology to the judicial system and computerizing the procedures within the Courts.	Intermediate Term	
A.3- Overcoming legal, procedural and technical obstacles related to the prosecution of corruption crimes	Introduce legislative amendments to ensure that immunities are suspended in corruption cases.	Intermediate Term
	Developing and implementing a program to activate the Special Tribunal for Presidents and Ministers.	Intermediate Term
	Finding modern techniques to enhance the role of Public Prosecution Offices in supervising the initial investigation.	Intermediate Term
	Introducing a legislative amendment that requires the administration to have a time limit to respond to the necessary permission request before the employee is prosecuted, and upon its expiration the permission is considered granted.	Intermediate Term
	Creating an administrative unit in the State Council to follow up the implementation of those decisions, to register cases of non-compliance with the implementation of its provisions, and submit reports on them to the relevant constitutional authorities.	Intermediate Term
	Developing theoretical and applied educational curricula related to preparing judges at the Institute of Judicial Studies, and adding new study materials and methods on combating corruption in related fields such as public finance, accounts, informatics, communications and the environment.	Intermediate Term
	Develop and implement a program for capacity building in international judicial cooperation: mutual legal assistance mechanisms - asset recovery - extradition.	Intermediate Term
	Preparing and approving a law that aims to recover money from the crime and its management during seizure and after confiscation.	Long Term

Table 2: B- Support the role of regulatory agencies in combating corruption.

Outputs	Work Fields	Time Span
B.1- Update and support of the Central Inspection Authority	Adoption of a law to modernize and strengthen the Central Inspection.	Intermediate Term
	Strengthening the role and independence of the Central Inspection in order to enable it to fully perform the tasks entrusted to it, in terms of holding accountable persons who hold public offices and holding them accountable for what they commit in terms of behavioral and administrative violations.	Intermediate Term
B.2- Update and support the High Disciplinary Authority	Adoption of a law to update and support the High Disciplinary Authority.	Intermediate Term
	Activating the role of the High Disciplinary Authority by enhancing its powers and developing its structure to enable it to perform the tasks assigned to it.	Intermediate Term
	Amending the cadre of the High Disciplinary Authority and creating jobs that correspond to its tasks.	Intermediate Term
B.3- Activating the role of the Audit Bureau in discovering acts of corruption and confronting them	Developing the powers and capabilities of the Audit Bureau, granting it the power to monitor performance, establishing systems for evaluating the quality of the works, supplies and services implemented and provided for the benefit of the administration, and expanding the scope of its control to include all parties concerned with managing public funds without exception.	Intermediate Term
	Issuing the necessary regulatory texts to prepare the accounts of the bodies abiding to supervision and determining the principles of keeping and standardizing them and sending them to the Audit Bureau for auditing and reviewing, with updating the control methods, developing their methods and adopting International Auditing Standards, so that they become quick and effective.	Intermediate Term
	Activating subsequent judicial supervision of accounts and employees and raising the value of fines imposed by the Audit Bureau on those responsible for the violations committed, in proportion to the severity of the damages and losses incurred to Public Funds.	Intermediate Term
	Inform the special reports prepared by the Bureau to each of: the President of the Republic, the Speaker of Parliament, the Head of Government, and the deputies, for publication on its website and in the media.	Short Term
B.4- Supporting the application of the Republic Mediator Law	Appointing the Republic's Mediator and his assisting body by virtue of the Law Number 664 dated 4 th February 2005.	Short Term
	Preparing and issuing the required decrees and decisions to start the work of the Mediator of the Republic and his assisting body.	Short Term
	Providing the Republic's mediator with the necessary resources to carry out his mission.	Intermediate Term
	Training the Republic's Mediator and his assisting body.	Intermediate Term
	Establish work systems and procedures for the Republic's mediator and his assisting body.	Intermediate Term
	Put the Republic Mediator's work program, supporting its implementation, and publishing periodic reports.	Intermediate Term
	Educating citizens and raising their level of awareness of this law.	Intermediate Term
B.5- Developing and activating the Internal Audit	Evaluating the internal audit situation, including analyzing the current legal and regulatory framework, to provide appropriate recommendations for the introduction of the internal audit function in the Lebanese administration.	Short Term
	Raising awareness of the importance of the internal audit function of the main control bodies (Central Inspection and Audit Bureau).	Short Term
	Carrying out a capacity needs assessment and proposing an institutional framework for the internal audit's unity (jobs, staffing ...).	Intermediate Term
	Developing the internal audit strategy, the internal audit charter, as well as manuals based on international standards and good practices.	Intermediate Term
	Provide relevant training to the Ministry of Finance.	Intermediate Term
	Supporting the production of internal audit reports on a periodic basis.	Long Term
B.6- Enhancing communication and cooperation channels among regulatory agencies	Forming and training a common committee for permanent coordination and exchange of information between regulatory agencies.	Intermediate Term
	Forming and training a common committee for permanent coordination and exchange of information between the abovementioned regulatory agencies.	Intermediate Term
	Automatic linking of files examined by regulatory agencies and building a common database.	Intermediate Term
	Supporting the aforementioned regulatory agencies to enhance their communication with citizens.	Intermediate Term

Gross national Product, not to mention the indirect cost in which the percentage of losses may double.

Noting that the damage of corruption and the losses incurring from it are no longer limited to the financial side but its importance went beyond and has affected the reputation of the country and its place among other countries. Many think that the problem has surpassed the concept of "Corruption" as the situation has become as a prescribed theft of the national resources, robbery of the public funds and the citizens' properties and livelihood [15].

In this article, we are supposing short, medium and long term reforms that aims to enhance transparency and accountability, in addition to reduce discretionary in order to increase confidence in decision makers [16].

No matter how many objectives and whatever mechanism or criterion for its implementation, the basic component of implementing these reforms lie in the existence of a mere political will that pursues anti-corruption approaches in its policy and that shall be absolutely convinced that the country is not organized and the public interest can only be achieved by fighting and preventing corruption.

Establishing Transparency

Transparency is openness and clarity. Its opposite is secrecy, concealment and hiding. In the work of public administration, it means the right to obtain information and the freedom to access to it. In other words, let the information available to the public i.e. the public of citizens or foreigners who wish to check the work of the public authority. The greater the transparency is, the narrower the margin of corruption with it shall be [17]. The opposite is also true as chaos, confidentiality and hiding information reinforce the roots of corruption so that it shall be difficult to detect it and determine its implications. However, the Law "The right to Access Information" Number 28 dated 10/02/2017 is considered the most incarnating transparency in the current Lebanese Laws. It constitutes an advanced qualitative leap in the achieving the goals of governance and all the energies shall be mobilized in order to implement it effectively in reality.

In this context, it is necessary to publish the information related to the public deals and administrative, and judicial decisions and circulars, in addition to publish the periodic and annual judgments and reports issued by the judiciary or those issued by the Control Bodies, to announce the results of the final investigations transferred before Courts as well as to announce the relevant legal provisions. This is considered a major component that contributes in reducing corruption since publishing the corruption cases that are revealed and announcing the names of the perpetrators and exposing them to the public constitute a conviction of the latter about the ability and the effectiveness of the public authorities in fighting corruption and pursuing corrupts. Exposing these matters to the public, whether family, relatives, friends and social surroundings, causes them to think a thousand times before committing corruption crimes apart to the behavioral, financial and penal sanctions that they may be subjected to as well [18].

Activation of Accountability

Perhaps the most important objective of these reforms is to have an integrated system of accountability to punish the perpetrators of corruption, their partners and everyone who contributed in any

corrupt action. Accountability begins in defining responsibilities and enabling their owners to fulfill them [19]. It is based on two main phases: disclosure according to which the official discloses to the asking reference that he has fulfilled his obligations and accountability, according to which the competent reference whether it was administrative, supervisory or judicial, decides whether the official shall keep his responsibilities, shall be dismissed or shall receive other penalties.

Accountability is the first pillar in fighting corruption and in the event of its absence, the strategy shall remain on the papers that are read daily but not implemented and remain unable to fulfill the promised wishes. For its completeness, accountability requires limiting the concept of immunity or at least, simplifying the principles of lifting it so that it shall be easy and uncomplicated, allowing any competent reference in fighting corruption to launch the accountability process without any constitutional, administrative, judicial or mainly political impediment [20]. An effort has been made to estimate its results in this field, as a suggestion of anti-corruption law in the public sector was prepared in which the procedures for pursuing senior employees and judges were simplified in the event of the existence of an administrative, financial or judicial corruption. As for immunities at the level of Presidents, Ministers and Deputies, they remained the same for many reasons including the need for a constitutional amendment. It is advisable to add the required amendment to the suggested law of establishing of the aforementioned body by finding a legal formula that allows the persecution of Senior Officials in the Lebanese State since maintain the current immunities will make any anti-corruption strategy incomplete and weak. Any citizen, supervisor or specialist will be given the opportunity to criticize the strategy as a whole even if it includes other important and achievable objectives [21].

Reducing Discretionary in the work of the Administration

The discretionary power in the administrative work is one of the general legal principles and is the right of the administration without which the work of the administration shall be paralyzed and its activities shall be stopped, even the judge does not supervise this discretionary power at the minimum. The Lebanese Laws like all comparative laws explicitly include in some of its texts granting the administration the right of discretionary and appreciation. It is worth not to confuse the concept of discretionary in the aforementioned sense with the abuse of this discretionary power granted to him as it become an "arbitrary authority" then it gives the opportunity to all kinds of political, administrative, financial and judicial corruption [22].

The solution is to set control in practicing these discretionary powers without strictly restricting them not to fall into paralysis in the public utilities. In other words, the oversight of the practice shall stem from the implementation and not from the texts. The principle of supervising already exists and is stipulated in the laws and regulations and the supervising bodies also exist and there is no obstacle to reduce this discretionary unless by activating administrative control and choosing the appropriate persons and protect them in reality and texts [23].

Prevent Escaping from the Punishment

Preventing from escaping from punishment is carried out through accountability in its abovementioned comprehensive concept which

constitutes an essential pillar for activating anti-corruption process, because there is no effective combat without serious accountability that affects those responsible of the violations committed at all levels, reward and punishment without any distinction between positions and persons [24].

In this context, the judiciary and the oversight bodies have to be very careful to apply laws and regulations and take deterrent measures against violating public employees with complete impartiality to the extent of imposing appropriate penalties on them [25]. On the other hand, rewarding those who deserve in order to motivate them, not only to continue in their proper legal performance but also to develop it towards the best and give a good example to others follows.

The four abovementioned goals shall all be available and the absence of any of them shall automatically require the obituary of these reforms.

There are several mechanisms to fight corruption. They need self-approval for everyone who is responsible for his actions, not just a political decision, as corruption is not limited to a class of politicians and senior officials, but rather it goes beyond individuals and companies in both the Public and Private Sectors [26]. The objectives of this strategy can be reached by carrying out the following mechanisms:

First: Constitutional Institutions

It is more beneficial to start fighting corruption through the existing Constitutional Institutions in the State, to respect the rights of each of the three authorities: legislative, executive and judicial with balance and cooperation among them, and independently from each other, so that the Parliament undertakes its legislative role and monitors the work of the government. In its turn, the government works to run the country's affairs, provide the necessary services to the citizens, and ensure the proper functioning of the public facilities under the supervision of the judicial authority that is keen to implement the laws and regulations in force and to control the delicate balance that exists between the legislative and the executive authorities [27].

Second: Open Government

This requires activating the law of the right to access the aforementioned information, enacting appropriate modern legislations and finding modern technical means to ensure the speed and ease in disseminating information and the right to access it through electronic government, signature and electronic stamp.

It also requires the citizen to be involved in the decisions taken and to consult him about them in order to enable him to comment on the information he has accessed and to express his opinion and observations on it, via the Internet, for example, and this leads to improving and fortifying the decisions taken and benefiting from the experiment and experience of each citizen in this field [28].

In addition, the cooperation of public administrations with each other and with the private sector and civil society should be strengthened to improve public performance, while preserving the privacy and rights of individuals. It requires that the Lebanese State also cooperate with International and Regional Bodies concerned with combating corruption, as well as with other friendly countries, in accordance with the mechanisms stipulated in Chapter Four of

the United Nations Convention against Corruption (UNCAC) [29].

In conclusion, the governance and anti-corruption agenda that is increasingly championed by international agencies like the World Bank identifies critical goals that all developing countries aspire to. There is no question about the desirability of good governance. The questions raised in this article are really about:

- (i) The extent to which these are not just goals of development but also necessary governance preconditions for development,
- (ii) Whether they can actually be achieved in Lebanon, and
- (iii) Whether a focus on these governance issues is taking our eye off more important and achievable reforms that will enable the goals of good governance to be achieved faster. Our analysis seriously questions whether the governance agenda can be interpreted as a precondition for development rather than being a list of important and desirable objectives [30].

We also argue that there are strong structural drivers of corruption and weak property rights that mean that these goals are unlikely to be achieved to any significant extent in any developing country, regardless of economic performance [31]. There is a real danger that these structural drivers are not being properly understood. The desire to link lending and partnership with developing countries on the basis of small differences in governance and corruption indicators is seriously misguided according to our analysis. Apart from the subjectivity of these indicators and the possibility of manipulation, our argument is that small differences in these indicators tell us nothing at all about development prospects of developing countries [32]. Instead, we argue that we need to identify critical governance capacities on a country-by-country basis to accelerate economic and social transformations in developing countries. We also need a framework for distinguishing between types of corruption so that we can set realistic and feasible national institutional reform priorities and anti-corruption strategies [33]. And finally we argue that by focusing on a long list of unachievable goals as immediate reform priorities, we are losing the opportunity to carry out critical reforms that enhance the chances of developing countries moving from diverging to converging status, or remaining sustainably in the converging group once they have enjoyed a growth spurt. On the contrary, this reform agenda is in serious danger of creating disillusionment and reform fatigue as its goals are unlikely to be achieved.

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