



Position Paper of the Lebanese Transparency Association (LTA) – No Corruption
(The National Chapter of Transparency International - TI)

**on legislative Efforts to Combat Corruption and Promote
Good Governance in the Public Sector in Lebanon**

This Paper is published under the “Ensuring Accountability in Reconstruction and Reform Efforts in Lebanon” (EARREL) project funded by the German Federal Foreign Office.

In line with the Lebanese Transparency Association – No Corruption policy, to provide Open-source information to the public, this publication can be used with the citation of its source. If it is not cited, LTA reserves its rights to take the necessary legal measures against anyone who uses the content of this publication without mentioning the source.

The Correlation between Combatting Corruption, Good Governance and Society's Prosperity and Wellbeing

The process of combatting corruption and promoting good governance in the public sector is two-dimensional: social and administrative. Combatting corruption goes hand in hand with realising society's expectations and ambitions of prosperity and wellbeing. These cannot be achieved if society is infested with corruption, particularly the State's public administrations and institutions, which are charged with this responsibility and obligated to follow the principles and standards of good governance in their work. As for the legal and administrative dimension, the State must set an anti-corruption legal framework within the public sector to criminalise and punish corruption. This framework must be supported by another that regulates public administration through the principles and standards of good governance, to ensure the best interest of the public, namely society's prosperity and wellbeing.

A Legal Framework to Combat Corruption and Promote Good Governance in Lebanon

On the Level of the Constitution

The domestic laws in Lebanon rely on the Lebanese Constitution first, and the international commitments of the Lebanese State second. The provisions of the Universal Declaration of Human Rights (UDHR) are integrated within paragraph (b) of the Constitution's Preamble, thus guaranteeing the freedom of thought and expression, public employment, and public services for all citizens, equally. This necessitates a legal framework to combat corruption and promote good governance. Moreover, paragraph (c) of the Constitution's Preamble stipulates that Lebanon is a "democratic republic", meaning it utilises the concept of accountability, which in turn requires an access to information in order to achieve effective accountability. Last but not least, Article 13 guarantees the right to thought and expression, from which emanates the right to access information, which is an additional constitutional guarantee to promote good governance and combat corruption.

On the Level of International Commitments

Lebanon ratified the UDHR in 1948, the International Covenant on Civil and Political Rights (ICCPR) in 1976, and the United Nations Convention against Corruption (UNCAC) in 2009.

These constitutional principles and international commitments constitute the general framework with which national anti-corruption and good governance legislations must comply. These national legislations are reflected in the following laws:

- Law No. 175/2020 on combatting corruption in the public sector and establishing the National Anti-Corruption Commission. This Commission would have a key role in ensuring other relevant laws and decrees are being implemented appropriately, including:
- Law No. 28/2017 on the right to access information, its Amendment Law No. 233/2021, and Decree No. 6940/2020;
- Law No. 83/2018 on the protection of whistle-blowers and its Amendment Law No. 182/2018;
- Law No. 84/2018 on enhancing transparency in the Petroleum Sector;
- Law No. 189/2020 on the declaration of assets and other interests and the repression of illicit enrichment;
- Law No. 214/2021 on the recovery of assets resulting from corruption crimes.

In addition to the following laws:

- Law No. 244/2021 on public procurement, which relates to combatting corruption and promoting good governance in terms of developing a tendering process and unifying its legal framework;
- Law No. 44/2017 on the election of Members of Parliament, which relates to the political accountability that produces a parliament that re-forms the executive power, which in turn works on combatting corruption and promoting good governance in public administration;
- Law No. 44/2015 on fighting money laundering and terrorist financing, which regulates economic right-holders and the mechanism to access relevant information, which can be used to combat corruption, limit, and prohibit the conflict of interest, the exploitation of power, and fraud. Furthermore, declared information contribute in informing investment and public procurement policies.

The fight against corruption is inherent in numerous legislative decrees, bills, and plans, either through the regulation of public administration or oversight bodies. These include Decree-Law No. 111/1959 on the organisation of public administrations; Decree-Law No. 112/1959 on civil service; Decree-Law No. 115/1959 on the establishment of the Central Inspection (noting that there is a suggested amendment at parliament on developing the work of central inspection); Decree-Law No. 116/1959 on administrative organisation; Decree-Law No. 82/1983 on the organisation of the Court of Audit. The government had already sent a bill to amend it in 2012 to the parliament, that has yet to be passed. The Court of Audit had already prepared a strategic plan (2019-2024) to develop and modernise the financial auditing systems. However, there are no available information on the phases that were, or were not, implemented of this strategy.

Additionally, bank secrecy prevents any comprehensive investigation of crimes of corruption and illicit enrichment within the public sector. However, the Lebanese parliament passed an amendment of the law on bank secrecy, allowing further facilitation in lifting bank secrecy than the previous law. Theoretically, this will allow comprehensive investigation of crimes of corruption and illicit enrichment within the public sector. So, on a legislative level, this obstacle was overcome. What remains, however, is the practical implementation of the new law, so the public and the stakeholders could measure its effectiveness.

The bill establishing the independence of the judiciary is at the top of the other bills awaiting a decision in parliament. This bill will play a key role in combatting corruption and enabling the judiciary to exercise its role as an independent authority and punishing crimes of corruption in the public sector.

Under these laws, along with the ratification of the UNCAC, the Lebanese Council of Ministers issued the "National Anti-Corruption Strategy 2020-2025" aiming to promote transparency, optimise accountability, and prevent impunity by achieving 7 outcomes:

- Outcome 1: specialised anti-corruption legislations that comply with international standards and are enforced effectively;
- Outcome 2: higher levels of integrity within civil service;
- Outcome 3: a public procurement system that is less susceptible to corruption;
- Outcome 4: more integrity and anti-corruption capacities within the judicial system;
- Outcome 5: more specialised and effective anti-corruption oversight agencies;
- Outcome 6: a society that participates in spreading and embedding the culture of integrity;
- Outcome 7: anti-corruption preventive measures integrated within all sectors.

The Office of the Minister of State for Administrative Reform (OMSAR) publishes various information on the implementation of the strategy, its framework, and its follow-up mechanism in its annual report for the year 2020-2021.

The Reality of Corruption and Good Governance in the Public Sector

Amid this rather comprehensive legal framework for anti-corruption and good governance in the public sector, some would think that the fight against corruption is at its finest in Lebanon and that its outcomes are greatly contributing to the improvement of citizens' everyday life. However, the numbers show a different reality. According to the 2021 Corruption Perception Index, published annually by TI, Lebanon ranked 154/180, with a score of 24/100. And the Global Corruption Barometer, also published by TI, revealed that in 2019, 68% of respondents believe that corruption has increased in the last 12 months, and 41% of them paid a bribe while using public services in the last 12 months. Moreover, Lebanon ranked 26/133 on the Tax Justice Network's Financial Secrecy Index, with a secrecy score of 64, the closest to an exceptional level of secrecy which creates a welcoming environment for money laundering and concealment of money derived from illegal sources. According to this index, the external financial services sector in Lebanon accounts for 0.32% of the world total.

Moving Forward

LTA sees the current legislative work being done within the parliament as an opportunity to push for laws that are more compliant with international standards and the best anti-corruption practices. This is achieved by upholding constitutional principles and the Lebanese State's international commitments in this regard.

However, the sole existence of legislative frameworks without any implementation is not enough. This requires above all else a higher level of transparency from the Council of Ministers and public administrations by implementing an access to information legal framework. This is closely followed by the optimisation and promotion of periodical parliamentary oversight and accountability of the government, further increasing the integrity of the administrations' work and implementation of laws enacted by the parliament and decrees issued by the Council of Ministers.

On another level, adopting a participatory approach in decision-making, whether by the parliament, the Council of Ministers, or public administrations, is another guarantee to the enforcement of laws, either through accountability or support to official actors in civil society, as necessary. In order to achieve this, indicators could be set to show the public administration's level of commitment to the implementation of laws and regulations, as well as its effectiveness, which contributes to the continuous development of legislative frameworks regulating public administration.

The Council of Ministers' long-overdue appointment of the members of the National Anti-Corruption Commission does not mean the work is done. The government must provide headquarters and a budget line for 2022 within the public budget for the Commission as soon as possible. The Commission must immediately start with setting its internal regulations, especially after passing the legally-mandated 3-month deadline for the appointed members to issue these regulations, and implementing its duties as they are crucial for the activation of the aforementioned anti-corruption legal framework. Many laws were put on hold while waiting for the Commission to be formed to oversee its implementation.

Lastly, OMSAR must continue to publish information on the National Anti-corruption Strategy, particularly the second report on the strategy's implementation for 2021-2022.

References

- The 2021 Corruption Perceptions Index
<https://www.transparency.org/en/cpi/2021/index/lbn>
- The Global Corruption Barometer
<https://www.transparency.org/en/gcb/middle-east-and-north-africa/middle-east-and-north-africa-1/results/lbn>
- The 2020 Financial Secrecy Index
<https://fsi.taxjustice.net/PDF/Lebanon.pdf>
- The National Anti-Corruption Strategy
[https://omsar.gov.lb/Anti-corruption-\(1\)/National-Anti-Corruption-Strategy](https://omsar.gov.lb/Anti-corruption-(1)/National-Anti-Corruption-Strategy)