

CONFRONTING THE LEGACY OF POLITICAL VIOLENCE IN LEBANON

AN AGENDA FOR CHANGE



Recommendations from Lebanese civil society

October 2014

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INTRODUCTION

The recommendations contained in this report have been developed by a consortium of civil society actors. They constitute a set of practical political and social reforms specifically designed to address the legacy of the 1975–1990 war in Lebanon and the resulting ongoing cycle of political violence. These recommendations are driven by two main objectives: 1) to curb Lebanon’s ongoing vulnerability to political violence and 2) to introduce some measure of civic trust in state institutions. Fulfilling these objectives is essential for creating a political, economic, and social system that is inclusive, equitable, just, and viable, and perceived by Lebanon’s citizens as such. Addressed to state authorities, these recommendations are framed by the foundational approaches of transitional justice, namely truth-seeking, reparation, accountability, and institutional reform, and formulated as a comprehensive set of political, legal, administrative, and social measures or reforms.

The recommendations herein are primarily based on the right of Lebanese citizens to have access to the truth, justice, and dignity, and on the responsibility the Lebanese state to safeguard those rights. They are not intended to address the whole spectrum of issues that affect people in Lebanon; however, no strategy to break the country’s successive cycles of violence will succeed unless the issues identified in this report are addressed in a meaningful way.

Almost 25 years after the formal end of the war, the people of Lebanon continue to find themselves victims of political violence, primarily in the form of localized armed clashes, broader violent conflicts, and occasional car bombs and explosions. These disturbances are possible because of the presence of a fertile ground, marked by intercommunal grievances and fear, endemic corruption, and dysfunctional institutions. The youth of Lebanon are growing up in a culture of violence, impunity, lack of opportunities, and ghettoization.

The passage of time is opening up new spaces to reexamine the past. Certain segments, particularly among younger generations, are becoming more vocal in their demand

for deep-seated change. This arises out of fatigue over the conflicts of their elders and continuing cycles of violence. Even more, however, is the frustration experienced at the impact that this instability is having on all aspects of daily life, which includes a lack of opportunities, deteriorating quality of life, and a disconnect between the political class and the demands of citizens.

The space for change does exist, and civil society is making use of it. The present document is part of this movement, as a civil society-driven initiative borne of several rounds of discussions between various organizations. It includes issues for which there are well-developed and practical recommendations and other issues that the consortium has identified as crucial, but which require a more inclusive consultation process that involves other actors to create the most appropriate recommendations.

The issues identified here reflect the overarching goals of acknowledging those who have been most affected by the conflicts in Lebanon, addressing the structural roots of the conflicts, and strengthening state institutions to enhance the rule of law in the country.

The recommendations are based on research and advocacy work carried out by multiple civil society organizations in Lebanon—including victims' groups, researchers, and academics—on issues linked with transitional justice. The recommendations were also informed by analyzing three key studies carried out by the International Center for Transitional Justice (ICTJ) in 2013–2014:

- “Lebanon’s Legacy of Political Violence, a Mapping of serious violations of international human rights and humanitarian law in Lebanon, 1975–2008”: A chronological mapping of hundreds of incidents of serious human rights violations that occurred in Lebanon from 1975 to 2008, including mass killings, enforced disappearances, assassinations, forced displacement, and the shelling of civilian areas. It reveals patterns of violence and provides an analysis of incidents within the framework of international human rights and humanitarian law.¹
- “Failing to Deal with the Past, What Cost to Lebanon?": A study that examines the situation of impunity in Lebanon that has persisted since the 1975–1990 war and analyzes Lebanon’s past experience of ineffective transitional justice measures—including limited domestic trials, narrowly mandated commissions of inquiry, and incomplete remedies for victims—and their impact on Lebanese society.²
- “How People Talk About the Lebanon Wars: A Study of the Perceptions and Expectations of Residents in Greater Beirut”: A report that examines the variation in wartime experiences of residents of Greater Beirut and explores differing attitudes and expectations regarding approaches to confronting the legacy of

war-related violence. It also documents how members of different segments of Lebanese society perceive and talk about questions relating to truth and memory, justice and accountability, reconciliation and social repair.³

This document was developed as part of an ICTJ program entitled “Addressing the Legacy of Conflict in a Divided Society,” funded by the European Union’s Instrument for Stability and from September 2011 to September 2013. Friedrich-Ebert-Stiftung (FES) has supported the project since then as a full partner. The program aims to increase policymakers’ attention to victims’ needs and expectations relating to successive conflicts in Lebanon since 1975, particularly regarding justice and accountability, and to further develop new approaches to confronting the past.

An advisory committee to the project, composed of academics and civil society members, was set up in January 2013 to identify the main issues relevant to transitional justice in Lebanon. In March 2014 a larger group of civil society representatives and academics came together to discuss a first draft of the recommendations. Following this first meeting, the consortium divided into two working groups, focusing on a different set of recommendations. Each of the working groups met several times between March and May 2014 to reach a shared formulation. In June 2014, a second plenary meeting, which included additional members, was held with the objective of reaching a final set of recommendations. This process was coordinated by ICTJ, which provided technical expertise on transitional justice issues.

BACKGROUND

The 1975–1990 war in Lebanon, and subsequent cycles of political violence, have affected the population in multiple ways.⁴ The harm suffered by many groups of victims has not been acknowledged or addressed in a meaningful or comprehensive way, which perpetuates the suffering of victims and undermines the subsequent enjoyment of other basic rights by the victims and their families.⁵ This ongoing state of injustice not only encroaches on victims' right to a remedy, but also aggravates existing tensions and instability in the country.

Every person who suffers harm through the perpetration of a criminal act is entitled to have access to justice and an appropriate remedy.⁶ The right to reparation of victims of gross violations of international human rights law and serious violations of international humanitarian law is set out in more detail in several United Nations Conventions and provisions developed by other international bodies.⁷ Thus, Lebanese authorities have a duty to ensure that all such violations are brought to an end and that all victims receive reparations that are commensurate to the harm they suffered. As a first step, this includes acknowledgement that victims have been wronged and, therefore, entitled to redress. Secondly, the state must ensure that victims are afforded redress to the fullest extent possible. It is important that victims participate in the process to determine which measures are the most appropriate, thus ensuring state compliance with its obligations.

In Lebanon, the only official initiative conducted to establish what happened after 1975 was a government report released in 1992 that estimated the number of victims of the war. Without a more effective and comprehensive truth-seeking process, reparation efforts have lacked the quantitative and qualitative understanding necessary to design comprehensive and meaningful reparation programs; school students have been left without an updated history curriculum and an ability to engage in critical thinking about the existing multiple narratives; and the recruitment and mobilization capacity of fighters remains high in an environment of enduring inter-communal resentments and fears.

An effective and comprehensive search for the truth and implementation of meaningful memorialization measures may support the healing process on the individual and societal level and lay the foundations to prevent recurrence of future conflict. Increasing knowledge about past abuses and their underlying causes is, therefore, an important step towards reconciliation, on the journey towards overall sustainable peace. This is supported by a 2014 ICTJ report, “How People Talk About the Lebanon Wars: A Study of the Perceptions and Expectations of Residents in Greater Beirut,” which found that “younger participants regarded broad-based historical clarification as fundamental to moving beyond partisan historical accounts.”⁸ Further, victims who were directly affected by violence “emphasize the importance of confronting the past to bring closure to the pain and suffering experienced, and to help unite Lebanese society through creating a shared understanding of the past.”⁹

There has also been a lack of accountability in Lebanon for those who committed violations of international human rights and humanitarian law and other international crimes. One of the most devastating consequences of the 1991 amnesty law has been the perpetuation of a culture of impunity permeating all aspects of life in Lebanon. The absence of accountability for gross violations and the selective approach to criminal justice – often prompted by political power-sharing agreements – has left victims bereft of their right to justice. These rights are set out in the Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity,¹⁰ and the United Nations Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.¹¹ Failure to hold perpetrators accountable, to establish and enforce the rule of law, and to adequately acknowledge and compensate the suffering of victims has eradicated civic trust in state institutions.

We say inshallah he will return. We say inshallah but 30 years have passed. Some tell you they threw them in the sea, others say in mass graves. We went to the mass graves. We used to come back from those mass graves smelling [like the] dead. We used to search the swollen corpses.

- Wife of a victim of enforced disappearance during the civil war

I. TRUTH & MEMORY

The consortium members consider that it is imperative for Lebanese authorities to take measures to acknowledge the harm suffered by victims and work closely with those affected to remedy the situation.

A. Clarify the Fate of the Missing and Forcibly Disappeared

In 1992, the government estimated that 17,415 persons went missing or were disappeared between 1975 and 1990.¹² Ever since, relatives of missing or disappeared persons have demanded the reinforcement of their right to know the fate of their loved ones. This has been their main demand ever since the armed conflict in Lebanon broke out in the mid-1970s. These enforced disappearances have furthermore generated a host of administrative, legal, and psychosocial issues that victims continue to face to this day. A different, but related, issue is the lack of legal recognition of a missing or disappeared person's status. The only option provided to families is to have their relative declared deceased for the purposes of settling any pending legal, financial, or administrative issues. Many of the disappeared were the male "breadwinner" of the household. Women, thus, face particular hardships as they assume the role of family leader in a deeply patriarchal society. This additional burden must be acknowledged, and adequate support and reparations should be provided.¹³

Two official fact-finding commissions, in 2000 and 2001, yielded no meaningful results to the families.¹⁴ Lebanese state authorities have thus more recently acknowledged that the issue remains pending. Former President Michel Suleiman, for example, in his 2008 Inaugural Oath address, stated: "we should dedicate ourselves wholeheartedly to the mission of freeing the prisoners and the detainees as well as revealing the destiny of the missing persons in addition to recovering our sons who sought refuge in Israel, for the homeland embraces all of its sons."¹⁵

Families demand their right to the truth, including the right to an effective investigation, verification of facts, and public disclosure of what happened. These demands were laid out in a joint memo of 17 civil society organizations that was presented to the President of the Republic on June 5, 2008.¹⁶ Among other things, the memo requested the ratification of various UN Conventions and reform of the Lebanese Penal Code.

Finally, on March 4, 2014, Lebanon's State Council issued a ruling that declared that relatives of missing people have the right to truth concerning the fate of their family members.¹⁷ On April 16, 2014, two Members of Parliament presented to the Parliament a Draft Law for Missing Persons, and Forcibly Disappeared. That draft law had been developed by civil society organizations, including the family committees, and establishes the legal, administrative, and institutional framework necessary to engage in a truth-seeking process that conforms with international norms and best practices.¹⁸

The recommendations of the consortium are also based on two recently-conducted qualitative surveys with families of missing or disappeared persons.¹⁹

i. Adopt the Draft Law for Missing and Forcibly Disappeared Persons by the Parliament

The consortium recommends that the Lebanese Parliament proceed with the adoption of the Draft Law for Missing and Forcibly Disappeared Persons, which was submitted to Parliament on April 16, 2014.²⁰ The text is intended to establish the legal and institutional framework to promote and protect the right of any victim to know the truth about the circumstances of an enforced disappearance and the fate of the disappeared person, and the right to seek, receive, and impart information to this end. Among other things, the Draft Law addresses the following points, which the relatives of disappeared persons have identified as instrumental.

Acknowledge the Right to Truth and Access to Information

The Draft Law provides for the acknowledgement of the most basic rights of the families of missing or disappeared persons, namely, the right to know the fate of their relative, whether they are still alive or—if they have died—to know the reasons and circumstances of their death. The Draft Law endeavors to identify the location of the remains of deceased persons who were disappeared and facilitate the recovery of those remains. It also recognizes the right of any relative of the missing or disappeared person, and any person close to him or her, to access tracing-related information and

participate in investigations aimed at determining the fate of the missing or disappeared relative (that are not legally confidential).

Establish an Institute for the Missing and Forcibly Disappeared Persons to Clarify the Fate of the Missing and Disappeared

The Draft Law sets the framework for creating an institute mandated to clarify the fate of missing persons, including those who were disappeared by all armed groups, including foreign forces operating on Lebanese soil. In close cooperation with the relatives of the missing and disappeared, its tasks will include locating, protecting, and excavating individual or mass graves, identifying remains found, and returning them to the families for their proper burial. The institute must have the necessary means and powers to allow it to conduct effective investigations, including subpoena powers and access to state archives. In addition, the institute will also create a centralized, comprehensive, and accessible database of all persons—Lebanese and non-Lebanese—who went missing or were disappeared in Lebanon. This database should build on the various lists already collected by nongovernmental organizations and the International Committee of the Red Cross. Relatives of victims as well as other interested parties should be able to access the individual files of disappeared persons at all times, and be updated about any progress or information regarding that file.

Legal Status for the Disappeared

The Draft Law outlines an appropriate expeditious procedure to provide a “Missing person certificate.” This would create a clear and recognized status for the missing or disappeared that applies to the personal, property, and family relations of the disappeared and allow the nearest family member to take decisions involving its application. This procedure will be administered by the institute that is to be established once the proposed legislation is adopted.

ii. Clarify the Fate of Lebanese Citizens Detained in Syria and Other Foreign States

The issue of persons who are believed to have been arrested or abducted in Syria, or who have been arrested or abducted in Lebanon and then transferred to Syria or elsewhere, and whose fate remains unknown requires special attention.²¹ Although it is the Lebanese authorities’ duty to clarify the circumstances of their enforced disappearance, their fate, and current whereabouts, the Lebanese authorities have no coercive powers to ensure the cooperation of a third state. Therefore, they will have to rely ultimately on bilateral agreements to uncover the

truth and obtain the release of the missing or disappeared, or, in case of death, identification and repatriation of their remains (should that be the wish of the relatives).

In the current context, **the consortium sees as the most viable solution to mandate an Office for Missing and Forcibly Disappeared Persons within the institute with the task of investigating cases of individuals believed to be detained in Syria.** The institute needs to be empowered to seek the assistance of the Lebanese executive, which must then act on collected information to ensure victims' release from Syria or the return of remains. The institute must ensure that the families of victims are regularly updated on the progress of these investigations, provided with any results, and informed of its strategy to obtain the release of persons who are alive or the remains of those who have died. This office should also be mandated to receive tracing requests related to enforced disappearances in other countries.

iii. Ratify the International Convention for the Protection of All Persons from Enforced Disappearance

The consortium recommends that the Lebanese Parliament proceed with the ratification of the International Convention for the Protection of All Persons from Enforced Disappearances.²² This convention was signed by Lebanon in 2007, but requires enactment into domestic legislation. Doing so would include introducing the crime of enforced disappearance into the Lebanese Penal Code.

B. Truth-Seeking Measures

The recommendations in this section should provide guidance to Lebanese authorities on why a comprehensive truth-seeking process should be initiated and how to conduct it in compliance with international standards. The state should ensure that the process observes principles derived from human rights and humanitarian law. Particular care should be taken to ensure that processes are respectful of all victims, afford equal consideration, and reflect the diversity of experiences.

i. Establish an Independent Commission to Conduct a Comprehensive Truth-Seeking Process

The consortium recommends that the Lebanese authorities establish an independent commission to conduct comprehensive investigations into gross human

rights violations and violations of international humanitarian law committed from the beginning of the war in 1975 until the present. This search for the truth should be conducted in close consultation with relevant stakeholders. When creating the commission, particular attention should be paid to the following issues.

Object of Inquiry

For a truth commission to be effective, it must have a strong and clear mandate that specifies the time period, geographical area, and type of violations to be covered and whether to identify individual perpetrators and victims.

The consortium recommends that the commission should conduct inquiries into the succession of conflicts in Lebanon between domestic and foreign military forces and armed groups. Similarly, the commission should investigate the role played by Lebanese state institutions during this period.

Objectives of the Commission

The mandate should specify the objectives of the commission in terms of outcomes to be achieved. It is the consortium's view that the commission should endeavor to establish and document facts that serve to explain the structural roots of the recurring violence.

The commission should be mandated to prepare a report that establishes an accurate and impartial historical record of the conflict that ensued from 1975. It should endeavor to investigate the commission of gross human rights violations and identify both the victims and perpetrators. Source materials should be preserved, secured, and made publicly accessible in an archive or database. Lastly, the commission should be given the mandate to provide policy advice, in the form of recommendations, with sustainable strategies for dealing with the legacy of the commission, pursuing truth and memory initiatives, and any other measures useful for promoting reconciliation and sustainable peace.

Normative Framework

The operation of the commission needs to exemplify the new fairer practices that citizens should expect from their government. The consortium, therefore, insists that investigation, management, and public outreach of the commission must respect the fundamental standards of human rights and ensure the integrity and highest standards of professional ethics at all times. This includes a firm commitment to the rights of all victims, guarantees

of nondiscrimination, and principles of fairness. Such values and principles should not only be included in its founding text, but be apparent in all of its actions.

Guarantees of Independence and Prerogatives to Effectively Carry Out the Mandate

For the truth-seeking process to be effective, it must be undertaken by a broadly representative and independent commission. To preserve the independence and legitimacy of such a body, a transparent process for the appointment of commissioners is essential. Further, commissioners must not be removed except for justified reasons, and they must be protected from threats or retaliation. The commission itself must enjoy financial, administrative, and operational autonomy. It should be empowered to summon witnesses and produce evidence.

Victim Participation, Consultation, and Outreach

The legitimacy and effectiveness of a truth commission greatly relies on the active involvement of victims' groups and engagement with the wider public. Its mandate, therefore, must be developed through a consultative approach that includes open discussions among the government, victims and their legitimate representatives, academic and research institutions, relevant civil society organizations, political parties, and other stakeholders. During this consultative process emphasis should be placed on engaging the most disempowered groups of society. This will strengthen the legitimacy of the commission and help legislators to understand the experience of all victims. Consultation and outreach should continue during all phases of the truth commission's work.

ii. Promote a Balanced Reflection on Lebanon's Recent Past in Education

The consortium recommends that the Ministry of Education amend and update school curricula, for both state and private schools, at all levels of education, to convey an accurate and impartial narrative of Lebanon's recent history. The curricula should include the period of recurrent armed conflicts, paying special attention to an inclusive telling of this complex past in a way that is appropriate to different age groups. The Ministry of Education is encouraged to cooperate with other state or nongovernmental institutions to ensure a balanced reflection of diverse experiences, particularly in history, literature, and civic education classes. Curricula should emphasize reflection, tolerance of different viewpoints, and constructive dialogue. Teachers should be trained in specific methodologies to effectively foster a culture of openness and understanding.

C. Memorialization

i. Create a National Memorial

The consortium recommends that the state facilitate the creation of a national memorial to commemorate all victims of Lebanon's multiple conflicts. This memorial should be a space of remembrance and societal acknowledgment for Lebanon's current and future generations. In addition, the memorial could house a center for peace studies, dialogue, and an archive.

ii. Rename Public Spaces and Build Local Memorials

The consortium recommends that local authorities, like municipalities, initiate a consultative dialogue with communities to rename public spaces that were named after political and military leaders who were involved in Lebanon's conflicts or incidents of serious violations. This dialogue should also provide the opportunity to suggest other forms of memorialization.

II. REPARATION: ADDRESSING THE NEEDS OF VICTIMS OF POLITICAL VIOLENCE

The consortium members consider that it is imperative for Lebanese authorities to take measures to acknowledge the harm suffered by victims and work closely with those affected to remedy the situation.

A. Reparations and Addressing the Needs of Relatives

The consortium recommends that the Council of Ministers issue an executive decree outlining reparation mechanisms for relatives of missing and disappeared persons. It should be based on the proposal that is supposed to be prepared by the institute within one year of the entry into force of the Draft Law. The decree should recognize families' right to reparation, whether or not the full truth is known. It should take into account that the enforced disappearance of a family member causes not only psychological harm to the relatives,²³ but also usually entails a variety of social, legal, and economic problems that can affect future generations.²⁴ The decree should also take into account the particular hardship often caused to women who must become heads of household after the enforced disappearance of a husband, father, or brother, or to children after the disappearance of a parent or guardian.

Reparations may include, but are not limited to:

1. Financial support to the relatives of missing or disappeared persons in accordance with their needs and the harm suffered. This may include payment of outstanding social security benefits or retirement pensions owed to the disappeared, their spouse, and/or their next of kin;
2. Establishing an appropriate mechanism to provide medical and psychological care for the families of the missing;

3. Access to livelihoods and education for families; and
4. Eliminating administrative barriers for asset transfer of any funds or moveable and immovable property that were blocked as a result of the enforced disappearance.

Furthermore, the situation of children of non-Lebanese fathers requires attention, and measures should be taken to guarantee their right to work and remain in the country without having to continually renew visas.²⁵

B. Addressing the Needs of Victims of Arbitrary Detention and Torture, including in Syria and Israel

During the different phases of conflict, both Lebanese and foreign actors engaged in the arbitrary detention of thousands of Lebanese and non-Lebanese residents inside Lebanon and in Israel and Syria.²⁶ Although the experiences recounted by former detainees vary, most speak consistently about torture and ill-treatment and the absence of due process, making their deprivation of liberty arbitrary. In addition, many were detained without access to the outside world for lengthy periods of time, sometimes decades.²⁷ This further deepened the trauma and hardship for the victims and their families. When released and returned to their families, many continued to face an uphill battle for acknowledgment and for financial, administrative, legal, and psychosocial support.

The situation of some of those who were prosecuted and jailed in Syria is particularly complicated. The Syrian authorities, by virtue of their presence in Lebanon at the time, ensured that these people were retried on their return to Lebanon and again found guilty. Their imprisonment was not only prolonged by several months or years, but they now also have a permanent criminal record in Lebanon stemming from an often-grossly-unfair trial.

Even now, without the established presence of foreign occupying states in Lebanon and without open armed conflict, the issue of arbitrary detention continues.²⁸ Due to misconduct by intelligence, security,²⁹ and armed forces,³⁰ as well as systemic shortcomings of the judiciary, detainees are held in pretrial detention for excessive periods of time and are at risk of being imprisoned based on evidence extracted under torture. Many are held without legal basis altogether, particularly migrant workers and refugees.³¹ Another category of persons who are at risk of arbitrary detention and torture are those held for suspected affiliation with terrorist groups.

Regarding remedies and reparations, in 2001 the Parliament passed Law 364 on Compensations or Pensions for Detainees Released from Israeli Prisons.³² The law

mandated the Ministry of Finance to distribute compensation to Lebanese detainees released from Israeli prisons. The beneficiaries have expressed many reservations about the program and its implementation. Similarly, victims of incommunicado detention in Syrian prisons or at the hands of Lebanese state and non-State actors also continue to call on Lebanese authorities to provide for adequate remedies and develop and implement reparation programs to meet their needs.³³ Programs to address the needs of victims of torture, including official acknowledgement of their suffering, do not exist.

i. Bring an Immediate End to Arbitrary Detention and Torture

The consortium recommends that Lebanese authorities afford prompt and effective remedy to victims of arbitrary detention and torture by bringing the respective violation to an immediate end. This includes complying with the state's duty to ensure equal and effective access to justice for those who are held in contravention with fair trial norms or domestic procedures and those who allege that they have suffered physical or psychological abuse. Urgent measures should be taken to ensure that the detention of all persons held by any state or nonstate actor is in conformity with the law, if not, then they should be released. Similarly, victims of torture or persons at risk of torture must be afforded protection from imminent or further abuse; if necessary, they should be transferred to facilities that are under the control of authorities who are able and willing to guarantee their physical and mental integrity. If this cannot be done, then they should be released.

ii. Support for Victims of Arbitrary Detention and Torture

The consortium recommends that Lebanese authorities develop a comprehensive national strategy for the rehabilitation of victims of torture and arbitrary detention. This strategy should be developed through a consultative and inclusive process to ensure that victims' specific legal, administrative, material and psychosocial needs are met. Policy makers need to be aware of the different experiences that women, minors, foreigners, and other vulnerable groups may have had and ensure adequate compensation. It is important to note that this must in no way restrict the inalienable right to justice of victims to seek remedy and compensation against individual perpetrators, including juridical persons. These reparation measures should include, but should not be limited to, acknowledgement of the harm suffered by victims, and, where applicable, official apologies. Victims should furthermore be entitled to medical and psychological care for themselves and their families, legal counsel in

relation to issues that arose as a consequence of the period of detention, and access to livelihood through, for example, vocational training or education for the victim or family members.

A specific demand often raised by victims of arbitrary detention is the ability to access a judicial procedure that will allow them to seek to clear their official records. The Lebanese authorities should ensure and facilitate such access to a court to initiate a retrial or to seek expunction of their records through appropriate legislation.

In terms of redress that should be afforded to victims of torture, Lebanon's obligations are clearly outlined in Article 14 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment³⁴ and the Committee against Torture's General Comment No. 3.³⁵ Being a party to the convention since 2000, Lebanon has committed itself to respecting, ensuring the respect of, and implementing the treaty.

C. Addressing the Needs of the Displaced

The situation in Lebanon typifies the intrinsic links between displacement, massive human rights violations, and serious breaches of international humanitarian law. First, serious and widespread violations, such as mass killings, arbitrary arrests, torture, and rape, often caused displacement, while some violations, like the destruction of homes and property, were aimed at undercutting the possibility of return. Second, forced displacement was often a deliberate strategy adopted by parties to a conflict and can in itself constitute a war crime or a crime against humanity. Third, displacement left its victims—including sectors of society that had already been in need of particular protection, such as women, children, or refugees—vulnerable to other human rights violations and later contributed to social exclusion or economic disadvantage. It is estimated that as a result, more than 800,000 persons (one third of the population) were displaced during the 1975–1990 conflict, temporarily and permanently, and that another third of the population left the country permanently.³⁶

The Lebanese authorities have previously instituted reparation plans for persons affected, mostly focused on compensation and restitution. For victims of forced displacement, the Ta'if Agreement recognized “the right of every Lebanese evicted since 1975 to return to the place from which he was evicted.”³⁷ The Ministry of the Displaced was created as well as the Central Fund for the Displaced, and other state institutions have been involved in reparation programs. A host of concerns have been raised by stakeholders, however, including mismanagement, corruption, selectivity

(which contributes to inter-communal tensions), and not least, the fact that “No distinction was made between victims and aggressors.”³⁸

Resolving issues related to displacement in a sustainable manner, therefore, requires addressing not only past human rights abuses, but also mismanagement of the process and current vulnerabilities. It is particularly important to address these concerns, as a lack of socioeconomic opportunities due to ongoing political violence is often prone to be perceived as a profound injustice. This can then fuel tensions within and among Lebanon’s diverse communities.³⁹

In this context, the consortium recommends that state authorities facilitate a comprehensive mapping of all incidents where families and communities have been forcibly dislocated, starting from 1975, and analyzing their current situation. This assessment should include meeting with displaced communities to document their present needs. This information is essential to gain a better understanding of these needs to then design more effective reparation policies. This effort will necessarily have to take into account the work already carried out by the Ministry of the Displaced and build on any progress made.

D. Addressing the Needs of the Disabled

Estimates vary of the number of persons who were physically disabled as a result of war and subsequent political violence. In March 1992, the Lebanese government released an estimate based on police reports of 197,506 wounded persons as a result of the war, including 13,455 with permanent disabilities. Subsequent research based on several primary sources estimated that 86.1 percent of the wounded were civilians, with 9,627 persons permanently disabled.⁴⁰

As a result of civil society pressure, the government created the National Council on Disability, and Parliament adopted Law 220/2000. However, Lebanese authorities have failed to fully implement the provisions of that law, notably provisions relating to health, education, electoral, training, and labor placement services.⁴¹

Victims’ groups have expressed the importance of improving general infrastructure and legal frameworks to support the disabled, overcoming the problem of having to claim particular treatments depending on the cause of the disability. The recommendations by the consortium reflect this objective.

i. Implement Law 220 Pertaining to the National Council on Disability

The consortium recommends that the government take measures to fully implement the provisions of Law 220 pertaining to the National Council on Disability, passed by Parliament in 2000, and to allocate the required financial means to enable a speedy implementation of its provisions.

ii. Ratify the Convention on the Rights of Persons with Disabilities

The consortium recommends that Parliament ratify the Convention on the Rights of Persons with Disabilities, which was signed in 2007, and ensure its effective implementation by adopting associated domestic laws and related reforms.

III. CRIMINAL JUSTICE AND ACCOUNTABILITY

The consortium sees an urgent need to establish a strong and unambiguous legal framework for effective investigation and prosecution of the most serious crimes. To be effective, this framework should be based on relevant international norms and standards, and it should be equipped with the necessary safeguards to ensure independence, impartiality and competence as well as the participation of victims.

A. Reinforce the Legal Framework for Criminal Justice and Accountability

It should be noted that Lebanon already views international law as overriding domestic law. Ratified treaties, such as the UN Convention Against Torture, the International Covenant on Civil and Political Rights, the 1949 Geneva Conventions, and their two additional protocols, supersede domestic law as soon as they are published in the Official Gazette, thereby making them official laws.⁴² Where there is conflict between a ratified treaty and domestic law a court will interpret the legality of the accused's actions based on the international legal document, not the domestic law.⁴³ However, a ruling by the court that the law is unconstitutional does not declare the law null; a law continues to be valid until the legislature amends the law.⁴⁴

To reinforce the existing framework for the effective investigation and prosecution of the most serious crimes, the consortium recommends that:

- relevant authorities undertake to ratify further key treaties;
- provisions of already applicable treaties should be integrated into domestic legislation;
- the article in the Constitution pertaining to amnesties be amended to prohibit amnesties for perpetrators of the most serious crimes, as described below.

i. Ratify the Rome Statute

The consortium recommends that the Lebanese state ratify the Rome Statute of the International Criminal Court.⁴⁵ This will enable perpetrators of genocide, crimes against humanity, and war crimes to be held accountable in future, with a consequent deterrent effect. It also sends a strong signal to the Lebanese people that state authorities are committed to accountability and justice.

Additionally, the consortium recommends that the Parliament ensure that its domestic legal framework defines and punishes international crimes, namely, genocide, crimes against humanity, and war crimes.⁴⁶

ii. Incorporate Provisions of Relevant Treaties into the Domestic Legal Framework

The consortium recommends that certain rights already recognized by Lebanon through ratification or signature of various human rights treaties be explicitly inscribed in the Constitution. This includes the right to truth and the right to reparation. It furthermore recommends that the Parliament amend relevant legislative texts to bring them into conformity with applicable international law. This will bring much-needed clarity and thus reinforce the rule of law.

The provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which Lebanon acceded in 2000, oblige member states to “take effective legislative, administrative, judicial or other measures to prevent acts of torture”⁴⁷ and to “ensure that all acts of torture are offences under its criminal law.”⁴⁸ With the ratification of the Optional Protocol to the Convention on December 22, 2008, Lebanon committed itself to “set up, designate or maintain at the domestic level one or several visiting bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment.”⁴⁹ **The consortium, therefore, recommends that the Parliament ratify the Draft Law on the Criminalization of Torture,**⁵⁰ **which was submitted in December 2012, and the Draft Law on the Establishment of a National Human Rights Institution Comprising the National Preventive Mechanism,**⁵¹ **which was submitted in November 2011.**

iii. General or Individual Amnesties for Most Serious Crimes Should Not Be Permitted

The consortium recommends amending Clause 9, Article 53 of the Lebanese Constitution to introduce a statement that prohibits the granting of any general or individual amnesty related to genocide, war crimes, and crimes against humanity. Widely ratified international human rights and humanitarian law treaties explicitly require state parties to ensure punishment for certain offences by instituting criminal proceedings against suspected perpetrators in domestic courts or by sending suspects to another appropriate jurisdiction for prosecution. Thus, blanket amnesties,⁵² de facto amnesties,⁵³ and “disguised amnesties”⁵⁴ for genocide, war crimes, crimes against humanity, and other violations of human rights are deemed impermissible under international law; they need not be respected by the international community. Notably, “Past lessons from history have shown that amnesties in the context of atrocious crimes are unlikely to be sustainable. The resulting impunity is an invitation for more abuse and most often a proclamation of victor’s justice.”⁵⁵

B. Ensure the Right to Justice of Victims of International Crimes and Serious Human Rights Violations

Lebanese authorities have a duty, under international law, to investigate and punish the most serious crimes. Several widely ratified international human rights law treaties, including some signed, ratified, or acceded to by Lebanon explicitly require state parties to ensure punishment of specific offences, either by instituting criminal proceedings against suspected perpetrators in domestic courts or sending suspects to another appropriate jurisdiction for prosecution.⁵⁶ Lebanon also has the obligation to prosecute war crimes,⁵⁷ whether committed during international⁵⁸ or non-international armed conflicts.⁵⁹ In addition to specific treaty obligations, states are required to prosecute crimes against humanity under customary international law.⁶⁰

The consortium recommends that Lebanese state authorities affirm their commitment to criminal accountability, develop a prosecutorial strategy, and entrust specialized units of the judiciary to investigate and prosecute those crimes prioritized by the strategy. Given the complexity and sensitivity of this endeavor, all necessary measures must be taken to respect due process standards and to allow for meaningful and safe participation of victims and witnesses in proceedings.

i. Specialized Units to Investigate and Prosecute the Most Serious Crimes

Given the complexity and particularities of international crimes, specialized units should be established within the Lebanese judiciary with the exclusive mandate to investigate and prosecute the most serious crimes. The judges, prosecutors, and investigators staffed in these units should be selected according to objective and transparent criteria, based on their individual merits and integrity.

The units should be multidisciplinary, including lawyers who are skilled in guiding system crimes investigations; expert analysts in various fields, notably historical, military, and political; a sufficient number of crime-scene investigators who can handle the expected multitude of cases; and experts on the particular needs of women and children. Undertaking a preliminary needs assessment and devising an associated training program will be essential to ensure staff have the capacity to investigate and prosecute these complex crimes.

IV. INSTITUTIONAL REFORM

Institutional reform is a key component of the range of mutually reinforcing measures employed to curb impunity, reinforce the rule of law, rebuild the Lebanese society's trust in their authorities, and sustainably prevent the recurrence of abuse and conflict. The need for such measures was, among others, expressed by participants of a 2014 qualitative study by ICTJ:

The most consistent sentiment from all focus group discussions was the lack of trust in current political leadership or existing government structures to advance transitional justice processes that are nonpartisan and geared toward institutional reform.⁶¹

The recommendations set forth in this section outline steps to be undertaken to build an effective, equal, and legitimate judiciary and security sector in Lebanon.

A. Judicial Reform

There are structural shortcomings in Lebanon's judiciary that are a significant impediment in the fight against impunity. The structural flaws that currently undermine the judiciary's independence stem from the lack of financial, administrative, and institutional autonomy of the judiciary bodies vis-à-vis the Executive. For example, it is the Executive that determines the budget of the judiciary, as it falls within the Ministry of Justice's budget. The Supreme Judicial Council, which acquired monitoring functions,⁶² shares with the Ministry of Justice its authority in promoting and transferring judges. However, the Executive appoints most of the Supreme Judicial Council's members. No provision related to appointment and discipline is contained in the Constitution.⁶³ In addition, the transfer system and professional development of judges is shared between the Supreme Judicial Council and the Executive. Not governed by any set criteria, it is used to apply pressure on judges or as a means of retribution for politically unpopular decisions.

Extensive civil society research in recent years has also identified shortcomings in guaranteeing fair trial norms and standards, and outlined some possible solutions.⁶⁴ Particular problems include inadequate legal counsel, admission of evidence that may have been extracted under torture, lengthy pretrial detention, and lack of alternatives to indefinite detention of foreigners whose residency situation is in conflict with the applicable law.

Besides the judiciary's shortcomings in terms of independence and due process, the issue of Lebanon's different specialized courts with their extensive competencies warrants attention. Often, these specialized courts have served to sidetrack justice, eroding the reputation and effectiveness of the Lebanese judiciary as a whole. During its last examination of Lebanon in 1997, the Human Rights Committee noted concerns in relation to, for example, "the broad scope of the jurisdiction of military courts in Lebanon, especially its extension beyond disciplinary matters and its application to civilians." The committee suggested that "[t]he State party should review the jurisdiction of the military courts and transfer the competence of military courts, in all trials concerning civilians and in all cases concerning the violation of human rights by members of the military, to the ordinary courts."⁶⁵

The consortium recognizes current efforts to strengthen the independence of the judiciary and improve its effectiveness as well as a number of decisions passed recently that represent stepping stones toward establishing a culture of accountability. To consolidate these efforts, the consortium recommends additional measures to strengthen the Lebanese judiciary.

i. Strengthen the Independence and Effectiveness of the Judiciary

The consortium recommends that measures be taken to ensure that the judiciary has administrative and financial autonomy.⁶⁶ This reform will require the adoption of a new law that would safeguard the independence of judges and ensure their immunity, immovability, and remuneration, and thus allow them to maintain their independence despite political meddling.⁶⁷ The judiciary should determine their own budgets and the expenditure process of the approved budget.⁶⁸ Judges should be able to enjoy their full right of freedom of expression and freedom of association within the limits set out in the UN Basic Principles on the Independence of the Judiciary.⁶⁹

To ensure this independence, there should be a comprehensive revision of the prerogatives of the Supreme Judicial Council. Necessary constitutional reforms

should be undertaken to enable judges to fulfill their mandate with independence and transparency.

These measures should also be accompanied by activating the judiciary monitoring bodies.⁷⁰

ii. Reform the Specialized Courts

The Military Court must be exclusively mandated to deal with disciplinary cases involving military personnel. Where there is a civilian party to any military case it should be transferred to the relevant judicial or administrative courts. Further, the standards of fairness, independence and impartiality that govern ordinary civilian courts must apply to military courts as well.⁷¹

The Judicial Council, which is mandated to receive cases related to state security, should be reformed;⁷² if reform is not achieved, then it should be abolished.⁷³ Indeed, cases are referred to it through a decree from the Council of Ministers, in violation of the principle of separation of powers and judicial independence. Its decisions are final and not subject to appeal, in violation of the right to review by a higher tribunal. Constitutional Council should have the authority to interpret the Constitution. The High Council for the Prosecution of Presidents and Ministers should be created as stated in the Constitution.

iii. Ensure Respect for Fair Trial Standards

The consortium recommends that sustained efforts be made to ensure that all trials strictly adhere to due process standards as laid out in international human rights law. Article 14 of the International Covenant on Civil and Political Rights, which Lebanon ratified in 1972, provides “In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.”⁷⁴ Respect for fair trial norms is a right to which every defendant is entitled. If violated the offending state is obliged to provide an appropriate remedy. A judicial system that upholds fair trial norms in all their detail will also greatly contribute to the restoration of civic trust.

In Lebanon, particular focus should be placed on the right to legal counsel from the time of arrest. Under certain circumstances, this will require the state to provide legal counsel for defendants that cannot afford a lawyer. At present, Lebanese bar associations have insufficient capacity and resources to provide such legal support to all defendants in need.

B. Security Sector Reform

The Lebanese security sector comprises the Lebanese Armed Forces (LAF), the Internal Security Forces (ISF), the General Security, and the State Security. The roles of the various actors have evolved over time. Efforts to rebuild a national security sector and to disarm the different militias began after the war, in the early 1990s. This process was, however, flawed by the continued presence of Syria and Israel on Lebanese territory. It was further undermined by a lack of resources and political will: “[i]n allocating security and other administrative offices to their followers, former warlords secured loyalty to themselves instead of to government agencies, linking civil service posts to *z’aims* (community leaders) and sects.”⁷⁵

After the departure of Israeli and Syrian forces in 2000 and 2005, respectively, national security and armed forces gradually expanded their capacities and assumed a widely recognized stabilizing role. There are, however, several factors that impede this stabilizing role or otherwise undermine their effectiveness.⁷⁶

First, Lebanon’s various security actors report to different political authorities. This makes the different agencies vulnerable to influence along political lines and accentuates their real or perceived loyalty to sectarian groups, rather than to Lebanese society as a whole.⁷⁷ This can undermine their effectiveness,⁷⁸ as failure to equally ensure the security and safety of all sections of society leads to alienation or even remilitarization of the part of population that—correctly or not—feels unprotected or discriminated against.⁷⁹ This not only has the adverse effect of increasing tension within society as a whole, but also makes the security services a target themselves, undermining their ability to bring stability through their presence. Notably, the way counter-terrorism measures—although undoubtedly necessary—have been implemented has further undermined civic trust in state institutions.

Second, insufficient coordination among the different governmental instances “undermines the formulation of policies and sector-wide planning [and] erodes operational command.”⁸⁰ Without incentives to coordinate the consolidation of the security sector and develop it into a set of services that is able collectively to ensure national security, it remains fragmented and marked by detrimental competition among different services.⁸¹ The lack of coordination also extends to other levels of security, like the investigation of crimes, which affects the quality of that output.⁸²

Third, consolidated efforts to improve the capacity of the Lebanese security sector to protect the population is desperately needed. Elements of the four main security actors are notoriously understaffed, underequipped, and undertrained.⁸³ Their work is furthermore weakened by corruption.⁸⁴

To be effective, security institutions need to be perceived as legitimate, independent of political interests and affiliation with any particular group, and competent. Achievement of these characteristics will help to improve their general trustworthiness. Moreover, a national comprehensive approach to controlling arms would also help to restore trust by reversing the current proliferation of armed groups around the country. These strategies, undertaken in parallel, should improve the effectiveness of these institutions to fulfil their mandate to establish the rule of law and protect the country's borders.

i. Civilian Oversight, External Accountability, and Transparency

To increase civic trust, the consortium recommends more diligent oversight by, and accountability to, democratically elected leaders as well as legislative and judicial bodies. Security and law enforcement agencies must also improve their commitment to transparency.

ii. Security Sector Development

As mentioned above, the current multiplicity of security actors and overlap in their competencies creates inefficiencies. The multiplicity of authorities to which they report further complicates coordination among the various actors. The consortium, therefore, recommends that to strengthen the Lebanese security forces to enable them to fulfill their mandate a comprehensive national security strategy should be created, taking into account the different needs and roles of all security actors. Special attention should be given to building capacity and increasing resources to enable these actors to carry out their national defense and border protection duties against outside aggressors.

iii. Codes of Conduct, Training, and Internal Accountability Mechanisms

The consortium recommends that—alongside reinforcement, capacity-building, and resource increases—programs aimed at creating awareness and knowledge about human rights should be integrated into initial and ongoing trainings of security and law enforcement actors. These programs should be based on standard operating procedures or codes of conduct that are clear and publicly disseminated. Where such procedures do not presently exist or need to be publicized, it should be done within a suitable timeframe. To ensure that these rules and procedures are respected, an internal system of accountability should be implemented, which has the capacity to decide on adequate sanctions or refer cases of misconduct to judicial bodies.

iv. Legitimate Use of Force, Disarmament, Demobilization, Reintegration, and Vetting

The use of force should be limited across all Lebanese territories exclusively to the Lebanese state.⁸⁵

The consortium recommends that the Lebanese authorities adopt a comprehensive disarmament, demobilization, and reintegration program for all militias and armed factions affiliated to parties and groups in Lebanon. It must be based on international best practice. It will be an essential step toward establishing the future monopoly of the Lebanese state over the use of force.

A comprehensive vetting program should also be implemented to ensure that former members of armed groups who meet criteria established under law are integrated into the security sector.

C. Working Towards Reconciliation and Stability

Lebanon is a parliamentary democratic republic based on respect for public liberties, especially the freedom of opinion and belief, and respect for social justice and equality of rights and duties among all citizens without discrimination.⁸⁶

The Ta'if Agreement⁸⁷ set the foundation for amendments to the Constitution in 1991 and cited the necessity of a gradual plan for political and institutional reform in the aftermath of the war. The reforms, notably administrative decentralization,⁸⁸ the abolition of political sectarianism,⁸⁹ and the creation of an electoral law founded on a nonsectarian basis and with a Senate that ensured representation of all religious communities⁹⁰ were implemented selectively, however. The shortcoming of reforms contributed to the enduring cycle of violence and the lack of rule of law.

Stability in Lebanon is threatened by a myriad of factors, including the marginalization of, and limited governmental authority over, certain areas, particularly Palestinian, Syrian, and other camps, and disadvantaged suburbs of the larger cities and remote areas. Policies that discriminate against the inhabitants of these areas, and other citizens, based on their belonging, gender, age, or legal status constitute a threat to national stability and civil peace, and further undermine trust in state institutions. This situation requires rapid redress.

In a qualitative study conducted with fifteen focus groups in Greater Beirut,⁹¹ participants across all age and confessional groups complained about religion-based

discrimination. This problem has been perpetuated and aggravated by current political, economic, and social institutions.⁹²

i. Equality Before the Law and Elimination of All Forms of Discrimination

The preamble to the Lebanese Constitution emphasizes the country's membership in the League of Arab States and the United Nations and the obligation to adhere to the covenants of these organizations and the Universal Declaration of Human Rights. These texts, along with the Constitution itself, reinforce the "equality of rights and duties among all citizens without discrimination."⁹³ However, gaps remain in the equal promotion and protection of rights for all sectors of Lebanon's society, both in law and in practice.

Particularly disadvantaged groups include women, specifically their ability to pass on Lebanese citizenship to their children regardless of the father's nationality, and foreign nationals, notably migrant workers, refugees, and the stateless. Measures to ensure equal rights for all, such as legislative changes, implementation of effective policies, and ensuring adherence to relevant international instruments, should be taken.⁹⁴

Moreover, **the consortium recommends that Lebanese authorities take immediate steps to improve the status and situation of refugees in the country. It is relatively widely accepted that the presence of a large number of Palestinian refugees contributed to rising tension in the lead-up to the outbreak of violence in 1975.** Continued economic marginalization and discrimination against them, which is enshrined in Lebanese legislation, makes the Palestinian community vulnerable to exploitation and extremism. The massive influx of Syrian refugees since 2011 also puts a strain on Lebanese infrastructure and economy, further destabilizing the fragile political balance that the country has maintained since 1991.

A first step towards easing tensions surrounding the presence of large refugee communities is to ratify the 1951 Convention relating to the Status of Refugees⁹⁵ and the Convention's 1967 Protocol,⁹⁶ and clarify the state's obligations and refugees' rights. In accordance with these obligations, Lebanese authorities should immediately and fully implement Labor Law No. 129 and the Law on Social Security No. 128, and their amendments of 2010, and extend their application to all refugees.⁹⁷ Furthermore, a legal text should be adopted to define and determine who is a Palestinian refugee⁹⁸ and outline who is entitled to refugee status in Lebanon.⁹⁹ This will, by extension, provide a basis for the right to education and wage-earning employment for all people in Lebanon.

Lebanese authorities, with the support of the international community, should adopt a comprehensive and consistent policy to address the crisis caused by the recent influx of Syrian refugees. Over time, this may contribute to a reduction in the socioeconomic disadvantage and isolation of these communities, thus improving the overall security situation and stability of Lebanon.

ii. Devise Plans for Sustainable Development in Areas Most Affected by Recurrent Conflicts and Prone to Instability

Some areas continue to be plagued by recurring outbreaks of violence. This fragile situation is caused, in part, by unequal access to state infrastructure, including health services and education, which cements existing inequalities and transforms them into structural disadvantages. This, in turn, gives rise to grievances that can then mobilize members of the affected population toward violent activities outside the state's framework. Affected areas include disadvantaged suburbs of the larger cities, remote areas, camps, and refugee settlements. Their residents are socially marginalized and denied their economic, social and cultural rights, which increases the likelihood for social and security unrest.¹⁰⁰ The situation in some camps is particularly difficult, as they have become relatively lawless areas over which the Lebanese state has little or no authority.¹⁰¹ The situation is compounded by the presence of unregistered Syrian refugee settlements, which, in July 2014, comprised more than one thousand camps.¹⁰²

The consortium, therefore, recommends giving special attention to the development of these areas, using transparent criteria that should be established during comprehensive and inclusive consultations. It is particularly important that the implementation of development programs ensure equal access to state services and promote opportunities for gainful employment. They must be carried out in a transparent and consultative manner, independent of the political and sectarian affiliations of the respective neighborhoods.

iii. Call for a National Dialogue on Political Reform

Only some of the constitutional reforms set out in the Lebanese Constitution and the Ta'if Agreement were implemented, while others stalled for various reasons. The Consortium believes that the way to move forward is through a multi-level national dialogue that seeks to implement those reforms and to suggest others with the aim of developing the political system and promoting transitional justice, democracy, human

rights, and the elimination of all forms of discrimination against people in Lebanon.

As members of Lebanese civil society, the consortium hereby commits to:

- Make coordinated efforts to collect relevant data that can inform subsequent debate;
- Meet regularly to discuss progress and identify information gaps;
- Promote debate on the concept and meaning of active citizenship in Lebanon, and the promotion of tolerance, and respect for equal rights for all;
- Reach out to all sectors of Lebanese society to engage in debate and dialogue on the recommendations set out in this document; and
- Engage with political actors to encourage the reform of state institutions to make them more inclusive, legitimate, and credible.

The consortium further encourages other civil society actors to join them in these efforts.

END NOTES

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39. See, generally, ICTJ and Brookings–LSE Project on Internal Displacement, “Transitional Justice and Displacement: Challenges and Recommendations” (2012), <http://ictj.org/sites/default/files/ICTJ%20and%20Brookings-LSE%20Transitional%20Justice%20and%20Displacement%20Report.pdf>

40. This figure, however, is believed to be modest because it is based on a narrow definition of “people with physical disabilities” and does not take into account victims since 1990.
41. For further discussion of the shortcomings of the implementation of the law, see, for example, Niamh Fleming-Farrell, “Law on people with disabilities ‘far from being implemented,’” *The Daily Star*, Apr. 3, 2013, www.dailystar.com.lb/News/Local-News/2013/Apr-03/212361-law-on-people-with-disabilities-far-from-being-implemented.ashx#axzz3BU7trVbv
42. Georges J. Assaf, “The Application of International Human Rights Instruments by the Judiciary in Lebanon,” in *The Role of the Judiciary in the Protection of Human Rights*, eds. Eugene Cotran and Adel Omar Sherif (1997), 81, 85.
43. Legislative Decree 90 of the Civil Procedure Code, Oct. 6, 1983, art. 2. See *Mahkamat al-Isteinaf*, No. 684 of Jul. 10, 1952; *Mahakamat al Tamieez*, Dec. 9, 1973; *Prosecutor v. Ayyash*, No. STL 11-01/1, Feb. 16, 2011 (Interlocutory Decision on the Applicable Law: Terrorism, Conspiracy, Homicide, Perpetration, Cumulative Charging), 42-43; see also Lebanese Center for Human Rights, “Submission to the United Nations Universal Periodic Review of Lebanon” (2010), 1, www.europarl.europa.eu/meetdocs/2009_2014/documents/droi/dv/201/201010/20101025_4-5unreview_en.pdf
44. Legislative Decree 90 of the Civil Procedure Code, Oct. 6, 1983, art. 2; Georges J. Assaf, “The Application of International Human Rights Instruments by the Judiciary in Lebanon,” in *The Role of the Judiciary in the Protection of Human Rights*, eds. Eugene Cotran and Adel Omar Sherif (1997), 86.
45. Rome Statute of the International Criminal Court (2187 U.N.T.S. 90, Jul. 17, 1998, entered into force Jul. 1 2002).
46. It would be preferable that the definition of these crimes and its elements follow the terms of the Rome Statute. Note that there is no uniform position on the retroactive application of international crimes. See International Covenant on Civil and Political Rights (999 U.N.T.S. 171, Dec. 16, 1966, entered into force Mar. 23, 1976). Lebanon is a party to this Covenant, and at art. 15 it holds that: “No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed . . . [However] Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.” See, also, European Convention on Human Rights (Nov. 4, 1950, entered into force Sept. 3, 1953), art. 7, which replicates the same provision. The European Court of Human Rights has repeatedly held that this article does not prevent the retroactive application of provisions to prosecute serious crimes under international law, even if at the time they were committed they were not codified under domestic law.
47. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1465 U.N.T.S. 85, Dec. 10, 1984, entered into force June 26, 1987), art. 2(1).
48. *Ibid.* at art. 4(1).
49. Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (A/RES/57/199, Dec. 18, 2002, entered into force June 22, 2006), art. 3.

50. See World Organization Against Torture, “Lebanon has to criminalize torture! A Call to the Lebanese Deputies!” (2013), <http://www.omct.org/human-rights-defenders/statements/lebanon/2013/12/d22480> (English); Draft Law on the Criminalization of Torture (2012), www.ghassanmoukheiber.com/uploads/0000000598.pdf (Arabic)
51. See Association for the Prevention of Torture, “Lebanon – NPM Designation” (2013), http://www.apct.ch/en/opcat_pages/npm-designation-33 (English); Draft Law on the Establishment of a National Human Rights Institution Comprising the National Preventive Mechanism (2011), www.ghassanmoukheiber.com/showArticles.aspx?aid=488 (Arabic)
52. “Blanket amnesty” can be defined as an exemption of broad categories of serious human rights violators from prosecution and/or civil liability without the beneficiaries having to satisfy preconditions, such as those aimed at ensuring full disclosure of what they know about crimes covered by amnesty. See Office of the United Nations High Commissioner for Human Rights, “Rule-of-Law Tools for Post-Conflict States: Prosecution Initiatives” (2006), 23, www.ohchr.org/Documents/Publications/RuleoflawProsecutionsen.pdf
53. In addition to de jure amnesties, some State laws, decrees or regulations constitute de facto amnesties; while not explicitly ruling out criminal prosecution or civil remedies, a law, decree or regulation may have the same effect as an explicit amnesty law.
54. “Disguised amnesties” are prescribed in regulations that interpret laws. On their face, they may be compatible with international law but, as interpreted by the implementing regulations, they are in fact inconsistent with a State’s human rights obligations.
55. ICTJ, “Failing to Deal with the Past: What Cost to Lebanon?” (2014), 6, <http://ictj.org/sites/default/files/ICTJ-Lebanon-Impunity-Report-2014.pdf>
56. See, for example, Convention on the Prevention and Punishment of the Crime of Genocide (78 U.N.T.S. 277, Dec. 9, 1948, entered into force Jan. 12, 1951), art. 1, which confirms that genocide “is a crime under international law” that the contracting parties undertake “to punish.” Moreover, art. 4 provides that persons who commit genocide or several related acts “shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals.” Similarly, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1465 U.N.T.S. 85, Dec. 10, 1984, entered into force June 26, 1987), art. 4(1), which requires State parties to “ensure that all acts of torture are offences under [their] criminal law” and make offences “punishable by appropriate penalties which take into account their grave nature.” Under art. 7(1), when a State party finds someone in its territory and under its jurisdiction who is alleged to have committed one of these offences, that state must either extradite the suspect or “submit the case to its competent authorities for the purpose of prosecution.” Additionally, several comprehensive human rights treaties, while not explicitly mentioning crimes against humanity, have been interpreted as obliging punishment. See, for example, the International Covenant on Civil and Political Rights (999 U.N.T.S. 171, Dec. 16, 1966, entered into force Mar. 23, 1976), to which Lebanon has acceded, and UN Human Rights Committee, General Comment No. 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, Mar. 29, 2004 (UN Doc. CCPR/C/21/Rev.1/Add.13), para. 18, on the nature of the general legal obligation imposed on states parties to the covenant. Although crimes against humanity are addressed in various international treaties, including the statutes of every international and hybrid criminal tribunal established since and including the Nuremberg Tribunal, they are not yet the subject of a treaty similar to the Genocide Convention. They have, however, been

recognized—in the words of the preamble to the Rome Statute—as among “the most serious crimes of concern to the international community as a whole” which “must not go unpunished” and whose “effective prosecution must be ensured.”

57. Under the widely ratified Geneva Conventions of 1949 and their 1977 Protocols, Lebanon is a party to all four Geneva Conventions and several Additional Protocols.
58. All four Geneva Conventions, when dealing with international armed conflict, identify certain violations as grave breaches. Geneva Convention I (1949), art. 49; Geneva Convention II (1949), art. 50; Geneva Convention III (1949), art.129; and Geneva Convention IV (1949), art. 146 specify that: High Contracting Parties are required to “enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches” identified in the treaty. Additionally, each High Contracting Party is “under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a *prima facie* case.” The ICRC provides a list of what crimes constitute war crimes under customary law; see International Committee of the Red Cross, “Rule 156: Definition of War Crimes”, www.icrc.org/customary-ihl/eng/docs/v1_rul_rule156
59. The ICRC states that, in non-international armed conflicts, the violations specified in Common Article 3 of the Geneva Conventions of 1949 and other offences also constitute war crimes. See International Committee of the Red Cross, “Rule 156: Definition of War Crimes,” www.icrc.org/customary-ihl/eng/docs/v1_rul_rule156
60. See M. Cherif Bassouni, “Crimes Against Humanity,” Crimes of War, www.crimesofwar.org/a-z-guide/crimes-against-humanity. Additionally, the UN General Assembly has passed multiple resolutions urging for the prosecution of perpetrators of crimes against humanity UN UN . The Extraordinary Chambers in the Courts of Cambodia recently noted that crimes against humanity do constitute customary law: *Prosecutor v. Nuon and Khieu*, Case No. 002/01 (2014), Judgement, para. 176, www.eccc.gov.kh/en/document/court/case-00201-judgement.
61. ICTJ, “How People Talk About the Lebanon Wars: A Study of the Perceptions and Expectations of Residents in Greater Beirut” (2014), ii.
62. Nizar Saghieh, “Intra-Judicial Interference: The Case of Lebanon’s Supreme Judicial Council Secretariat,” *The Legal Agenda*, Aug. 7, 2014, <http://english.legal-agenda.com/article.php?id=637&folder=articles&lang=en#.U-PUGFbxUy6>
63. See Constitution of Lebanon, May 23, 1926 (with amendments). Article 20 is the only provision in the Constitution on judicial authority. The functions of the judiciary and the guarantees to be granted to judges and litigants, as well as the power to appoint, transfer and promote judges, determine their salaries, and settle their administrative affairs, remain subject to the laws submitted by the government and enacted by the legislative power, thus weakening the judiciary.
64. See, for example, generally, ALEF – Act for Human Rights, “Guilty until Proven Innocent: Report on the Causes of Arbitrary Arrest, Lengthy Pre-Trial Detention and Long Delays in Trial” (2013), www.legal-agenda.com/images/articles/1367686082-ALEF-Arbitrary%20Detention-2013.pdf

65. UN Human Rights Committee, Consideration of reports submitted by States parties under article 40 of the Covenant: Concluding observations of the Human Rights Committee (Lebanon), May 5, 1997 (CCPR/C/79/Add.78), para. 14.
66. See, generally, UN Congress on the Prevention of Crime and Treatment of Offenders, Basic Principles on the Independence of the Judiciary, Aug. 26 to Sept. 6. 1985 (endorsed by the General Assembly: A/RES/40/32, Nov. 29, 1985, and A/RES/40/146 of Dec. 13, 1985).
67. Article 20 of the Lebanese Constitution does not provide for the independence of the judiciary and instead delegates the regulation of the judiciary to an ordinary law.
68. Arab Center for the Development of the Rule of law and Integrity, "A background paper about the State of the Judiciary in Lebanon," April 2006, at 17, www.arabruleoflaw.org/Files/PDF/Judiciary/English/P2/Lebanon_BackgroundpaperP2S2_En.pdf
69. UN Congress on the Prevention of Crime and Treatment of Offenders, Basic Principles on the Independence of the Judiciary, Aug. 26 to Sept. 6. 1985 (endorsed by the General Assembly: A/RES/40/32, Nov. 29, 1985, and A/RES/40/146 of Dec. 13, 1985), art 8 and 9.
70. Notably, the Supreme Council of Justice and the Judicial Inspection Committee. See www.justice.gov.lb/CP/viewpage.aspx?id=171&language=2 and www.justice.gov.lb/CP/viewpage.aspx?id=203&language=2
71. UN Human Rights Committee, General Comment No. 32, Article 14: Right to equality before courts and tribunals and to a fair trial, U.N. Doc. CCPR/C/GC/32 (2007), para 22.
72. Suggested areas of reform include the appointment process of judges (currently appointed by the Executive branch, in violation of separation of power and judicial independence principles) and issues related to appeals, retrials, trials in absentia, and failure to differentiate between adults and juveniles. See Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1, Working Group on the Universal Periodic Review, Lebanon, U.N. Doc. A/HRC/WG.6/9/LBN/2 (2010), http://lib.ohchr.org/HRBodies/UPR/Documents/Session9/LB/A.HRC.WG.6.9.LBN.2_Lebanon_eng.pdf
73. For more background, see, for example, www.legal-agenda.com/article.php?id=780&lang=ar
74. International Covenant on Civil and Political Rights (999 U.N.T.S. 171, Dec. 16, 1966, entered into force Mar. 23, 1976).
75. ICTJ, "Failing to Deal with the Past: What Cost to Lebanon," 27.
76. For an analysis of the legal texts that govern security in Lebanon, see www.lebarmy.gov.lb/ar/news/?36994#_U_2LJZXLpjo. Note, for example, Constitution of Lebanon, May 23, 1926 (with amendments), art. 49, 64, and 65; Ta'if Agreement, Second part, B (Internal Security Forces) and C (Armed Forces), [www.un.int/wcm/webdav/site/lebanon/shared/documents/Constitution/The%20Taif%20Agreement%20\(English%20Version\)%20.pdf](http://www.un.int/wcm/webdav/site/lebanon/shared/documents/Constitution/The%20Taif%20Agreement%20(English%20Version)%20.pdf); Decree No. 1157 (1991) (Internal Security Forces); Law No. 17 (1990), article 1 (Internal Security Forces); Legislative Decree No. 102 (1983), articles 1 (National Defense) and 7 (paragraph 2) (State Security); Decree No. 3771 (1981) (Army); and Legislative Decree No. 139 (1959), article 1 (General Security).

77. Omar Nashabe, The Arab Reform Initiative, "Security Sector Reform in Lebanon: Internal Security Forces and General Security," January 2009, 6, http://www.arab-reform.net/sites/default/files/PDF_SECURITY_SECTOR_Lebanon.pdf
78. On these LAF dynamics, see Aram Nerguizian, Center for Strategic and International Studies, "The Lebanese Armed Forces: Challenges and Opportunities in Post-Syria Lebanon," February 2009, 62, http://csis.org/files/media/isis/pubs/090210_lafsecurity.pdf
79. Mustafa S. Adib, Arab Reform Initiative, "Perspectives pour une réforme du secteur de la sécurité au liban," February 2012, 4.
80. Yezid Sayigh, Carnegie Middle East Center, "Fixing Broken Windows: Security Sector Reform in Palestine, Lebanon and Yemen", October 2009, 8, http://carnegieendowment.org/files/security_sector_reform.pdf
81. Mustafa S. Adib, Arab Reform Initiative, "Perspectives pour une réforme du secteur de la sécurité au Liban", February 2012, 4; Yezid Sayigh, Carnegie Middle East Center, "Fixing Broken Windows: Security Sector Reforms in Palestine, Lebanon and Yemen," October 2009, 23 (on intelligence services lack of cooperation and capacity in particular), http://carnegieendowment.org/files/security_sector_reform.pdf
82. Omar Nashabe, The Arab Reform Initiative, "Security Sector Reform in Lebanon: Internal Security Forces and General Security," January 2009, 5-6, www.arab-reform.net/sites/default/files/PDF_SECURITY_SECTOR_Lebanon.pdf
83. On the intelligence service's lack of capacity and border control's lack of resources and staff, see Yezid Sayigh, Carnegie Middle East Center, "Fixing Broken Windows: Security Sector Reforms in Palestine, Lebanon and Yemen," October 2009, 23-24, http://carnegieendowment.org/files/security_sector_reform.pdf. On LAF's lack of funds, see Aram Nerguizian, Center for Strategic and International Studies, "The Lebanese Armed Forces: Challenges and Opportunities in Post-Syria Lebanon," February 2009, 52, http://csis.org/files/media/isis/pubs/090210_lafsecurity.pdf
84. For discussion of ISF, GS, and State Security, see Omar Nashabe, The Arab Reform Initiative, "Security Sector Reform in Lebanon: Internal Security Forces and General Security," January 2009, 4-5, www.arab-reform.net/sites/default/files/PDF_SECURITY_SECTOR_Lebanon.pdf; For the LAF's lack of adequate combat training, see Aram Nerguizian, Center for Strategic and International Studies, "The Lebanese Armed Forces: Challenges and Opportunities in Post-Syria Lebanon," February 2009, 52, http://csis.org/files/media/isis/pubs/090210_lafsecurity.pdf
85. Legislative Decree No. 102 (1983) on National Defense, article 1, states that the objective of national defense is to strengthen state capacities, develop its ability to resist any attack or any aggression against its territory, and ensure national sovereignty and citizens' safety. However, at present, there are many active armed groups, such as Hizbullah and groups in Tripoli and Saida as well as other Lebanese, Palestinian, Syrian, and other foreign armed groups. This represents a threat to the state's ability to ensure sovereignty and control over its territory. See the Ta'if Agreement (1989), Second part, [www.un.int/wcm/webdav/site/lebanon/shared/documents/Constitution/The%20Taif%20Agreement%20\(English%20Version\)%20.pdf](http://www.un.int/wcm/webdav/site/lebanon/shared/documents/Constitution/The%20Taif%20Agreement%20(English%20Version)%20.pdf)
86. Constitution of Lebanon, May 23, 1926 (with amendments), Preamble (C).

87. See Ta'if Agreement, Second part, [www.un.int/wcm/webdav/site/lebanon/shared/documents/Constitution/The%20Taif%20Agreement%20\(English%20Version\)%20.pdf](http://www.un.int/wcm/webdav/site/lebanon/shared/documents/Constitution/The%20Taif%20Agreement%20(English%20Version)%20.pdf)
88. The Constitution of Lebanon (1926) provides in its preamble, Clause (g), that the “The even development among regions on the educational, social, and economic levels shall be a basic pillar of the unity of the state and the stability of the system..”
89. The Constitution of Lebanon (1926) provides in its preamble, Clause (h), that “The abolition of political confessionalism is a basic national goal and shall be achieved according to a gradual plan.”
90. The Constitution of Lebanon (1926) provides, in Article 22, that “with the election of the first Parliament on a national, non-confessional basis, a Senate is established in which all the religious communities are represented. Its authority is limited to major national issues.”
91. The study was conducted in Greater Beirut in five neighborhoods: Chiyah/Haret Hreik, Ashrafieh/Sin-el-Fil, Tarik al-Jdideh/Mazraa, Burj al-Brajneh Camp, and Hamra/Ras Beirut.
92. ICTJ, “How People Talk About the Lebanon Wars: A Study of the Perceptions and Expectations of Residents in Greater Beirut,” 2014, ii. Participants agreed that political clientelism and sectarianism in different fields fueled constant sectarian tensions and constituted a barrier to overcoming ongoing political violence and addressing the legacy of the war. Affiliation of those providing public services was to political leaders, and not to the nation and its citizenry as a whole.
93. Constitution of Lebanon, May 23, 1926 (with amendments), Preamble (C), and Article 7.
94. Regarding women, all discriminatory laws should be amended, including: the Law on the Protection of Women and other Family Members from Domestic Violence (which was endorsed in April 2014) to provide greater protection to women; the law on nationality to establish equality between the father and mother regarding the nationality of children; and removing the reservations to the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) (UN Doc. A/34/46, Dec. 18, 1979, entered into force Sept. 3, 1981). A unified and optional civil law for personal status should also be adopted. See, generally, Committee on the Elimination of Discrimination against Women, General Recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations, Oct. 18, 2013 (CEDAW/C/G/30), www.ohchr.org/Documents/HRBodies/CEDAW/GComments/CEDAW.C.CG.30.pdf; and Coalition for Equality without Reservation, Summary of Lebanon actions on CEDAW, Apr. 10, 2007, <http://cedaw.wordpress.com/2007/04/10/lebanon/>. To assist stateless people, international conventions on statelessness should be ratified and a survey conducted on the number of stateless people. Current discriminatory laws should be modified to reflect recent developments and conform with international standards on nationality. The discretion of authorities to grant nationality should be restricted to ensure nondiscrimination. For migrant workers, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (U.N. Doc. A/45/49, Dec. 18, 1990, entered into force Jul. 1, 2003) should be ratified to provide institutional and legal protection, improve access to justice, ensure suitable work conditions, and generally enhance the level of protection. Applicable laws, particularly the Labor Law, should be reviewed. Working conditions should be monitored to ensure conformity with international labor standards. An awareness campaign should be conducted amongst migrant workers, employers and the public to raise awareness about their respective rights and duties.

95. Convention relating to the Status of Refugees (189 U.N.T.S. 150, Jul. 28, 1951, entered into force Apr. 22, 1954).
96. Protocol to the Convention relating to the Status of Refugees (606 U.N.T.S. 267, Jan. 31, 1967, entered into force Oct. 4, 1967).
97. For a study on Palestinian Refugees and the 2010 amendments to the Labor Law and Social Security Law, see Legal Agenda, www.legal-agenda.com/images/studies/1311696331-Study%20Sohail%20Al%20Natour.pdf (Arabic).
98. Palestinian refugees in Lebanon are marginalized under various laws and fall below the lowest levels of social justice. See Palestinian Human Rights Organization (2012), www.palhumanrights.org/rep/ARB/Palestinian_Refugees_Social_Justice_20120220_ARB.pdf
99. The applicable laws should grant the right to own land. The status of Palestinians who do not hold identification cards must also be regularized.
100. See Palestinian Human Rights Organization (2012), 9, www.palhumanrights.org/rep/ARB/Palestinian_Refugees_Social_Justice_20120220_ARB.pdf
101. See International Crisis Group, “Nurturing Instability: Lebanon’s Palestinian Refugee Camps” (2009), i, 6 and 9, www.crisisgroup.org/-/media/Files/Middle%20East%20North%20Africa/Iraq%20Syria%20Lebanon/Lebanon/Arabic%20translations/nurturing_instability___lebanon_s_palestinian_refugee_camps_arabic.pdf (Arabic).
102. See Rashid Derbas, “1,300 camps for Syrian refugees erected at random in Lebanon and threatening to burst”, *Arab Week*, [http://arabweek.com.lb/index.php/ar/component/k2/item/10060-](http://arabweek.com.lb/index.php/ar/component/k2/item/10060-id=100)
103. id=100 (Arabic).

ANNEX: LIST OF CONSORTIUM PARTICIPANTS

Civil Society Organizations

1. ABAAD-Resource Center for Gender Equality
2. Act for the Disappeared
3. ALEF – Act for Human Rights
4. Al Karama for Researches and Studies
5. AMEL Association
6. Association of Former Political Detainees in Syrian Prisons
7. Centre for Lebanese Studies
8. Coalition of Campaigns Against Violence in Tripoli
9. Civil Society Movement
10. Committee of Families of the Kidnapped and Disappeared in Lebanon
11. Development for People and Nature Association
12. Lebanese Center for Civic Education
13. Lebanese Foundation for Permanent Civil Peace
14. Palestinian Human Rights Organization
15. Peace Initiatives
16. Permanent Peace Movement

17. The Forum for Development, Culture and Dialogue
18. The Sustainable Democracy Center
19. UMAM – Documentation and Research
20. Volunteers Without Borders
21. Wahdatouna Khalasouna

Academics

1. Ahmad Beydoun, (*Lebanese University*)
2. Anita Nassar, (*Independent consultant*)
3. Carle Eddé, (*Saint Joseph University*)
4. Elias Khoury, (*Writer, New York University*)
5. Elie El-Hindy, (*Notre Dame University*)
6. Karim El-Mufti, (*La Sagesse University*)
7. Maha Shuayb, (*Center for Lebanese Studies*)
8. Omar Houry, (*Beirut Arab University*)
9. Tarteel al-Darwich, (*Beirut Arab University*)
10. Makram Oueiss (*Lebanese American University*)

Acknowledgements

The consortium of civil society organizations and academics that participated in the development of these recommendations gratefully acknowledges the technical support of the International Center for Transitional Justice (ICTJ) and the financial support of the European Union, which funded the project for two years, and Friedrich-Ebert-Stiftung (FES), which funded the project in its final phase. The consortium acknowledges the efforts of Lynn Maalouf, who drafted the initial set of recommendations, and Theresa Steinen, who developed it into its current form. The consortium would like to thank Nizar Saghie, lawyer and founder of the Legal Agenda, and Nayla Geagea, lawyer, for their valuable guidance and advice.

CONFRONTING THE LEGACY OF POLITICAL VIOLENCE IN LEBANON: AN AGENDA FOR CHANGE

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Published by: International Center for Transitional Justice
Park Tower Building, 3rd Floor
Khalil Basha Street
Sanayeh, Beirut
Lebanon

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