



C.L.D.H

**Centre Libanais des Droits Humains
Lebanese Center for Human Rights
المركز اللبناني لحقوق الإنسان**

Legal Aid to Vulnerable Individuals in Lebanon January 2017



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Abbreviations

BBA	Beirut Bar Association
CCP	Code of Civil Procedures
CLDH	Lebanese Centre for Human Rights
CPP	Code of Penal/Criminal Procedures
GSO	General Security Office
ICRC	International Committee of the Red Cross
ISF	Internal Security Forces
LGBTI	Lesbian, Gay, Bisexual, Trans and Intersex
NGO	Non-Governmental Organization
NHRI	National Human Rights Institute
PoA	Power of Attorney
PRL	Palestine Refugees in Lebanon
PRS	Palestinian Refugees from Syria
TBA	Tripoli Bar Association
UNRWA	UN Relief and Works Agency for Palestinian Refugees in the Near east

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This report is the result of a combined team work carried out by CLDH. We would like express our deepest appreciation to all the members of CLDH board for their contribution and guidance along this research.

We would also like to thank the lawyers who play a key role in CLDH provision of legal aid to the most vulnerable inmates held in the Lebanese prisons. They do so through their ethical, competent work and attentive service. Their knowledge and experiences were essentials for the production of an accurate and extensive report of the legal aid system in the country.

We are grateful to the prison officials and members of the Beirut Bar Association and the Tripoli Bar Association, who provided us with their insight on the system of legal aid in Lebanon, as well as the NGOs and inmates who agreed to share their experiences with us and helped us gather accurate information about the provision of legal aid to vulnerable inmates in Lebanon.

The legal assistance system in Lebanon

A lawyer at CLDH described Justice in Lebanon as a bird with broken wings. In this metaphor, the judiciary and penitential systems represent the broken wings that prevent Justice from breaking free. The living conditions of detainees in the Lebanese prisons and their limited, if not inexistent, access to legal aid constitute the concrete representation of this metaphor in the everyday practice.

In 2009, CLDH started a project aiming at supplying for the lack of legal provision in the Lebanese system, by assisting vulnerable inmates in the detention centers all over the country, thus guaranteeing their right to access to legal representation.

This report presents the project implemented by CLDH, the successful results of the lawyers' assistance and the challenges they faced in the process of guaranteeing to vulnerable inmates their right to access to legal assistance. In order to better understand the key role played by this project, it is important to frame it in the Lebanese context, highlighting the faults and obstacles that prevent a proper implementation of the Law with regards to the provision of legal aid.

Before focusing on the legal and procedural aspects of the issue, the poor conditions of detention centers will be presented, as it constitutes a further obstacle to the provision of legal aid to vulnerable inmates.

Overview of the issue of detention in Lebanon

In Lebanon, the prison population is exceeding almost three times the capacities of detention facilities. According to the latest updated figures from the Government of Lebanon, in 2014, there were 11961 inmates in the Lebanese detention centers,¹ and 7352 in 2015². In March 2016, with a delay of 15 years from the due date, the Government of Lebanon submitted to the UN Committee Against Torture (CAT) a report presenting the Lebanese laws regulating the judiciary and penitential

¹ Report by the Government of Lebanon for the UN Committee Against Torture (CAT), (2016) available in Arabic online at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCAT%2fADR%2fLBN%2f23259&Lang=en

² This figure concerns the period until 30/08/2015, the first half of the year 2015

systems, especially those related to the prevention of torture. In the same report, the poor conditions of detention that affect most inmates in the Lebanese prisons, and the faults in the provision of legal aid have been acknowledged and the government pledged to take effective steps towards the improvement of such conditions.³ Nevertheless, CLDH believes that the report was not accurate enough in the representation of the reality of the judiciary and penitential system in the country. CLDH has therefore published a Shadow Report⁴ presenting a more accurate account of the current situation in the country with regards to the practice of torture, the organization and management of detention centers and the judiciary system.

CLDH has access to all the prisons under ISF control in Lebanon and regularly witnesses the appalling living conditions of the inmates. The organization conducted a study about the legal and humanitarian conditions in all the prisons in 2009 and continues to monitor them on a spot-check basis to measure changes in these matters.

As such, CLDH conducted a visit in Qobbeh prison in October 2016 and could note that in the male section of the prison, the ventilation system is still nonexistent and the detainees reported that they had not been allowed to go in the outside area for the two days before CLDH's visit. In addition, the conditions inside the cells vary from one to another, but most of them continue to be overcrowded. Some cells house up to 60 men, sleeping on mattresses on the floor. The lack of properly maintained bathrooms, the overcrowded situation and the poor hygienic conditions favor the spread of diseases and infections, especially amongst the most vulnerable inmates. The amount of furniture and appliances available to the detainees is often dependent on the support of their families; the poorest and foreign detainees are usually missing this additional support, which often guarantees a basic standard of living. Despite multiple programs that have been implemented with the aim of guaranteeing the provision of healthy food and a good nutritional balance to the detainees, many of them in the male section report the poor quality of the food distributed by the guards, which sometimes includes rotten fruits and vegetables.

The newly appointed director of the prison showed a positive attitude towards the work provided by CLDH and seemed willing to favor the assistance that the lawyers provide to the detainees. The same should be said with regards to the director of the female section of the prison, who helps the lawyer responsible for the Northern region, including Tripoli, to collect information from detainees who need legal assistance.

The female section of the prison is much smaller than the male one, so are the still crowded cells. The detainees sleep on beds, which take most of the space in their cells. There is a kitchen and a laundry room. The first lacks ventilation system and windows, thus making the air unbreathable during and after cooking, and the cooking facilities are old, some are not working and none of them complies to safety regulations. At the time of CLDH visit, the washing machine, located in the laundry room, was not working. Following their visit, CLDH provided the female section with a new working one. Overall, compared to male detainees, the women in Qobbeh prison still receive less help and support

³ Report by the Government of Lebanon for the UN Committee Against Torture (CAT), (2016) available in Arabic online at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCAT%2fADR%2fLBN%2f23259&Lang=en (last accessed 25/11/16)

⁴ [CLDH \(2016\). Shadow Report to Lebanese Government report for CAT](#)

from families and relatives, especially because most of them are foreign domestic workers. This was particularly clear since it was a day of visits and no detainee received any visitor or call during the time CLDH was there.

While Qobbeh is only one of the 21 detention centers that CLDH lawyers visit on a regular basis, it can be considered a fairly representative example of the average condition of Lebanese prisons. While a lot of structural and organizational changes should be made in order to improve the life of detainees and to guarantee their right to a minimum standard of living, the proper implementation of the law would already on its own lead to the easing of the penitential system. In particular, a large number of detainees and prisoners could be immediately released if they could avail adequate legal assistance.

Legal aid in the Lebanese law

Legal aid is necessary to ensure the equal enjoyment of protected rights by all, including those without the financial resources needed. Providing legal aid ensures three fundamental rights:

- equality before the law
- equal protection of the law
- effective remedy, by a competent tribunal, for human rights violations

This chapter will present the international codes and covenants that Lebanon ratified and the domestic laws that prescribe and sanction the provision of legal aid to individuals residing on the Lebanese land. Despite the multitude and clarity of these binding and non-binding legal tools, a high number of detainees do not have access to their right to legal assistance and representation.

International law rules on legal aid – Binding instruments

The Lebanese Constitution, in its Preamble states that:

“Lebanon is [...] a founding and active member of the United Nations Organization and abides by its covenants and by the Universal Declaration of Human Rights.”

Article 2 of the CCP is interpreted to provide that international treaties, covenants and conventions ratified by Lebanon are binding and applicable in Lebanon as part of the hierarchy of the law. A number of binding international instruments recall legal aid to those without the financial means needed.

International Covenant on Civil and Political Rights (ICCPR)⁵

The three fundamental rights mentioned above are enshrined in the ICCPR, ratified by Lebanon in 1976:

*“Each State Party to the present Covenant undertakes: (a) to ensure that **any person whose rights or freedoms as herein recognized are violated shall have an effective remedy**, notwithstanding that the violation has been committed by persons acting in an official capacity”. - Article 2-3.*

⁵ International Covenant on Civil and Political Rights (ICCPR), last accessed on 22/11/16, available online on: <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx> (last accessed on 25/11/16)

*” The States Parties to the present Covenant undertake to ensure the **equal right of men and women** to the enjoyment of all civil and political rights set forth in the present Covenant.” – Article 3.*

*“All persons are equal before the law and are entitled without any discrimination to the **equal protection of the law**. In this respect, the law shall prohibit any discrimination and guarantee to all person equal and effective protection against discrimination on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” – Article 26.*

The right to legal aid in criminal matters is specifically provided in **Article 14**:

“In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it.” - Article 14-3.

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

Under Article 2⁶ and Article 15⁷ of the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), Lebanon is obliged to ensure the legal protection of women on an equal basis and must provide civil legal aid necessary to the fulfilling of that obligation.

The CEDAW Committee has continuously reminded State Parties of the need to take measures to ensure that women across the world have access to fair and effective remedies when their rights are affected. The Committee has addressed the issue of access to justice through its various general recommendations, concluding observations, as well as decisions on individual communications. “Achieving substantive equality within the meaning of article 15 involves that [...] legal aid must be accessible to women to claim their rights.”⁸

International law rules on legal aid – Non-Binding instruments

In addition to the above mentioned international binding rules, a number of non-binding instruments have been accepted by Lebanon. Thus, as a member of the United Nations, Lebanon recognizes the normative and persuasive importance of Declarations, Principles and Resolutions adopted by the General Assembly. These are, among others:

⁶ CEDAW, Article 2, Available online at: <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm> (last accessed on 22/11/16)

⁷ CEDAW, Article 15, Available online at: <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm> (last accessed on 22/11/16)

⁸ “Access to Justice – Concept Note for Half Day General Discussion Endorsed by the Committee on the Elimination of Discrimination against Women at its 53rd Session”. Available online at: <http://www.ohchr.org/Documents/HRBodies/CEDAW/AccessToJustice/ConceptNoteAccessToJustice.pdf> (last accessed 22/11/16)

UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems⁹

The UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, adopted by the United Nations General Assembly in December 2012, are the first international instruments to deal with legal aid.

UN Basic Principles on the role of Lawyers¹⁰

The Preamble and Articles 2, 3 and 6 of these Principles on the Role of Lawyers articulate the duty to protect human rights, ensure equal access to lawyers and provide sufficient funding for legal services to the poor.

“Whereas adequate protection of human rights and fundamental freedoms to which all persons are entitled, be they economic, social and cultural, or civil and political, requires that all persons have effective access to legal services provided by an independent legal profession.” - Preamble.

“Governments shall ensure that efficient procedures and responsive mechanisms for effective and equal access to lawyers are provided for all persons within their territory and subject to their jurisdiction, without distinction of any kind, such as discrimination based on race, color, ethnic origin, sex, language, religion, political or other opinion, national or social origin, property birth, economic or other status.” - Article 2.

“Governments shall ensure the provision of sufficient funding and other resources for legal services to the poor and, as necessary, to other disadvantaged persons. Professional associations of lawyers shall cooperate in the organization and provision of services, facilities and other resources” – Article 3.

Special safeguards in criminal matters are enshrined in Article 6: *“Governments shall ensure that all persons are immediately informed by the competent authority of their right to be assisted by a lawyer of their own choice upon arrest or detention or when charged with a criminal offence.” – Article 6*

UN Body of Principles for the Protection of all Persons under Any form of Detention or Imprisonment¹¹

“If a detained person does not have a legal counsel of his own choice, he shall be entitled to have a legal counsel assigned to him by a judicial or other authority in all cases where the interests of justice so require and without payment by him if he does not have sufficient means to pay.” - Principle 17-2

UN Standard Minimum Rules for the Treatment of Prisoners¹²

⁹ United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, adopted in April 2012, E7CN.15/2012/24. Available online at: <http://www.un.org/Docs/journal/asp/ws.asp?m=E/CN.15/2012/L.14/Rev.1> (last accessed on 22/11/16)

¹⁰ Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August to 7 September 1990, UN Doc A/CONF 144/28/Rev 1 at 118 (1990) <http://www1.umn.edu/humanrts/instree/i3bpri.htm> (last accessed 22/11/16)

¹¹ GA Res. 43/173, annex, 43 UN GAOR Supp No 49 at 298, UN Doc A/43/49 (1988), available online at: <http://hrlibrary.umn.edu/instree/g3bppdi.htm> (last accessed on 22/11/16)

¹² UN Standard Minimum Rules for the Treatment of Prisoners, available online at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/TreatmentOfPrisoners.aspx> (last accessed on 22/11/16)

“For the purposes of his defense, an untried prisoner shall be allowed to apply for free legal aid where such aid is available, and to receive visits from his legal adviser with a view to his defense and to prepare and hand to him confidential instructions.” Rule 93

UN standard Minimum Rules for the Administration of Juvenile Justice¹³

“Throughout the proceedings, the juvenile shall have the right to be represented by a legal adviser or to apply for free legal aid where there is provision for such aid in the country.” - Rule 15.1

Domestic law on legal aid

If the legal aid in civil cases is detailed in several articles of the Code of civil procedures, legal aid in penal cases and the related procedure is not provided in details in the Code of criminal procedures. During the interviews conducted in the framework of this research, many deplored this lack of procedure in the law concerning penal cases.

Lebanese Code of Criminal Procedures (CPP), article 78

Regarding criminal cases, article 78 of the Code of criminal procedures provides that if a defendant appearing before the investigating judge is unrepresented, the judge either designates a lawyer or refers designation to the president of the competent Bar association (Beirut or Tripoli).

Lebanese Code of Civil Procedures (CCP), articles 425 – 441

Who is of Lebanese nationality or a foreigner usually residing in Lebanon where his or her country would grant reciprocal right to a Lebanese national, cannot pay the charges and fees of a trial, the party may apply for legal aid in order to sue or defend in the first instance or on appeal.

Legal Aid Beneficiaries

In Lebanon, there are no statistics on the number of persons requesting legal aid in both civil and penal cases. In 2016, the Beirut Bar Association took approximately 1400 cases, involving 713 lawyers in the provision of pro-bono legal aid¹⁴, and the Tripoli Bar Association takes approximately 90 cases per year. Moreover, Lebanese citizens in general and inmates lack information on the legal aid system they are entitled to benefit from.

Lebanese citizens

As provided by Article 425 of the Lebanese Code of Civil Procedures, any Lebanese citizen who is unable to assume the charges and fees of the trial is entitled to benefit from legal aid.

Natural Persons, Foreigners

Natural persons and foreigners are also entitled to benefit from legal aid under residency and

¹³ GA Res 40/33, annex, 40 UN GAOR Supp No 53 at 207, UN Doc A/40/53(1985), available online at: <http://hrlibrary.umn.edu/instree/j3unsmr.htm> (last accessed on 22/11/16)

¹⁴ Interview with President of Beirut Bar Association Legal Aid Committee (26/11/2016)

reciprocity conditions – as such, for foreigners, their country of origin should grant that same right to the Lebanese.

In 2012, in the framework of its legal assistance program, CLDH determined that the second reason of the beneficiaries' vulnerability was being a foreigner. More than half of the detainees who benefited from CLDH legal assistance program were foreigners in 2012.¹⁵ Foreign inmates represent most cases of assistance in 2016 as well, in particular Syrian and Palestinian refugees, as well as 26 other nationalities.¹⁶ Often lacking social links in Lebanon, foreigners are more likely to be victims of violations in prisons, as they usually have no family to appoint for them a lawyer, they are less aware of their rights, and are often not guaranteed their right to access a translator.

Indeed, the right to defense lawyers is not always guaranteed especially when it comes to migrants, who are mostly tried in mass and in speedy hearings without being given the opportunity to present their cases.

As for refugees tried for illegal entry and illegal stay, they are not automatically entitled to legal aid in civil cases.

Finally, lawyers are not allowed to access the retention center of the GSO which represents a major restriction to access to justice for foreigners.

Legal Aid Stakeholders

Lebanese State

Even though it was reported that during the 1970's and 1980's and up until 1992, the budget for the Ministry of Justice contained a modest appropriation of thousands of dollars per year to support the activities of the Beirut Bar association¹⁷, the Lebanese State is not anymore involved in the legal aid system in Lebanon in terms of budget. The Ministry of Justice has no implication as to Legal aid, neither in the texts nor in practice.

In Lebanon, legal aid is mainly delivered through the Bar Association Legal Aid Committees, and through special projects operated by local NGOs and international organizations.

NGOs, International organizations

Several civil society organizations are active in Lebanon in the area of access to justice; most of their work includes research, assessment, and legal counselling. Only few organizations, including CLDH, provide legal representation.

¹⁵ CLDH Report, Legal assistance to vulnerable detainees in Lebanese prisons (2012), p.9

¹⁶ Other nationalities include: Ethiopian, Bangladeshi, Kenyan, Sri Lankan, Iraqi, Philipino, Sudanese, Brazilian, Egyptian, Benin, Cameroonian, Chinese, Indian, Iranian, Jordanian, Malagasy, Malaysian, Nepalese, Nigerian, Peru, Somali, Togolese, Venezuelan, Algerian

¹⁷ "Legal Aid in Lebanon", Strengthening the independence of the judiciary and citizen access to justice in Lebanon, a USAID Project implemented by National Center for State Courts p. 16, available online at: http://pdf.usaid.gov/pdf_docs/pdacu039.pdf (last accessed on 23/11/16)

Although CLDH project is the main focus of this report and will be thoroughly presented in the next chapter, it is important to highlight that CLDH regularly collaborates with various organizations in the delivery of legal aid.

Legal Profession Legal texts

The legal profession in Lebanon is governed by the Law Organizing the Profession of Lawyer.¹⁸

Bar associations and their Legal Aid Committees

The first Bar Association was created in Beirut in 1919¹⁹, followed in 1921 by the creation of a second Bar in Tripoli. The one in Beirut covers all the districts in Lebanon, except the district of North Lebanon, and the one in Tripoli covers the district of North Lebanon.²⁰

Both Bar Associations are constituted of the following bodies: the General Assembly, the Council and the President.²¹

The **General Assembly** is composed of all member lawyers who paid their annual dues, and is the highest authority within the Bar. In addition to its ordinary annual meetings, the General Assembly meets in extraordinary meetings whenever the Bar Council considers it necessary or on request of one third of the lawyers who compose it.

The **Bar Council of Beirut** is composed of twelve members, including the President. The **Tripoli Bar** has six members, including the President. The members of the Council are chosen among lawyers at the court inscribed on the general register of lawyers for at least ten years. The former presidents become automatically permanent members of the Bar Council, but have no voting rights. The Bar Council is the executive body responsible for taking decisions on all matters concerning the functioning of the Bar.

The **President of the Bar** is the head of the Bar. He/she is chosen from among the members of the Bar Council who have a minimum of twenty years of practice. The two years' mandate of the President can only be renewed for two years after its expiration, although as a matter of tradition, a member serves only one term as President.

The **Beirut Bar association** is organized into several commissions, including the Legal Aid Committee, created in 1993. The decision to establish a **Legal Aid Committee** was taken in response to a need to find representation for approximately 300 accused awaiting trial in prison, and in exchange for an agreement with the military court that judges would no longer appoint officers from the courtroom, many of whom were not lawyers.

Prior to the establishment of the Committee, legal aid had been provided through an ad hoc system based on direct requests from judges to the President of the Bar Association²².

¹⁸Law organizing the profession of lawyer, N8/70 with its amendments, Available online at: <http://bba.org.lb/content/uploads/Syndicate/141020111552894~Law%20organizing%20the%20profession%20of%20the%20lawyers%20n.8-70%20and%20its%20amendments.pdf>, (last accessed 23/11/16)

¹⁹ Decision of the General Administrative Governor No. 192 issued on February 6th, 1919

²⁰ Tripoli Bar Association was established by Decree No. 655 of 1921

²¹ Law organizing the profession of lawyer, Title two – Organisation and management of the bar associations, Article 34

²² Report National Center for States Courts (NCSC) Legal Aid in Lebanon, Project to strengthen the independence of the judiciary and citizen access to justice in Lebanon, (3) Legal Aid Commission, p.16, available online at: http://pdf.usaid.gov/pdf_docs/Pnadu749.pdf (last accessed 23/11/16)

The **Tripoli Bar Association** (TBA) is also organized into commissions²³. Nevertheless, since the last CLDH report on legal aid in Lebanon, in 2014,²⁴ the internal organization of the Bar Association has changed and at the moment of the research in 2016, there was no Legal Aid committee. As reported by a member of the TBA, the provision of pro-bono legal aid has not been the priority of some of the previous presidents of the association. The newly appointed President declared his intention to improve the services provided by the TBA with regards to the issue of legal aid. It has indeed been reported that in the past, lawyers had been strongly requested not to provide pro-bono assistance to certain cases, based on the type of case and the accused's profile.²⁵ The new President has expressed his belief that everyone should have access to legal assistance, no matter their nationality, accusation and political affiliation. He disposes of a list of lawyers who made themselves available to provide legal aid, each will be appointed one case at the time.²⁶

According to the law organizing the profession of lawyer, no lawyer may practice unless the lawyer is registered in one or the other, but not in both, of the Bar associations²⁷.

Trainee lawyers

On July 31, 1931, the system of internship started in the Beirut Bar as per a decision by the Council of the Bar. Before a lawyer can be added to the roll of practicing lawyers, he/she must undergo a training period of three years as a trainee lawyer in the office of a lawyer practicing before the Court of Appeal.²⁸

A trainee lawyer may appear in the name of the practicing lawyer before first instance courts, committees and boards of different types, Courts of appeal for offenses on behalf of the defendants only, and criminal courts on behalf of the defendants.²⁹

Lawyers

The UN Basic principles on the role of the lawyers³⁰ state in their preamble that:

“adequate protection of the human rights and fundamental freedoms to which all persons are entitled, be they economic, social and cultural, or civil and political, requires that all persons have effective access to legal services provided by an independent legal profession”.

Lawyers play a fundamental role in securing the rule of law, and guaranteeing the effective protection of human rights in many various aspects:

- Advancing and improving the protection of the law at the national, regional and even international level through jurisprudence

²³ Meeting with President of Tripoli Bar Association (28/11/16)

²⁴CLDH Report on Legal Aid, (2014), available online at:

http://www.rightsobserver.org/files/Legal_Aid_in_Lebanon_EN_Designated.pdf (last accessed on 25/11/16)

²⁵ Interview with member of Tripoli Bar Association

²⁶ Meeting with President of Tripoli Bar Association, (28/11/16)

²⁷ Law Organizing the Profession of Lawyer - Articles 7 – 10, 14

²⁸ Law Organizing the Profession of Lawyer - Article 11

²⁹ Law Organizing the Profession of Lawyer - Article 24

³⁰ Basic Principles on the Role of Lawyers, Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990. Available online at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/RoleOfLawyers.aspx> , (last accessed 23/11/16)

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- Ensuring that all persons suspected of having committed or being connected with a criminal offence are treated in accordance with human rights standards at every stage of the investigation and proceedings
- Redressing the power imbalance between authorities and detained
- Preventing torture and other ill-treatment: the lawyer will often be the first person the detainee can inform about ill treatment and/or torture
- Addressing arbitrary or improperly justified detention
- Providing an alternative record of interviews to ensure the integrity of any evidence gathered

All these safeguards shall be made available to all persons, regardless of financial or other constraints, through Legal aid. As stipulated in the Law Organizing the Profession of Lawyer, lawyers may plead on behalf of a client pursuant to an ex officio appointment by the president of the bar as to provide legal aid upon request of the court.³¹

Lawyers must, in all of their acts, comply with the principles of honor, honesty and integrity and fulfill all the duties imposed by law and traditions of the Bar Associations. Ethics and discipline are both enshrined in the Law organizing the Profession of Lawyer³², the Internal Rules of the Bar Associations³³, and the Code of Ethics of the Legal Profession³⁴.

The Law Organizing the Profession of Lawyer therefore stipulates that lawyers shall be responsible towards their client for carrying out their task in accordance with the provisions of the laws and the terms of their mandate.³⁵ A Disciplinary Council is chaired by the President of the Bar Associations or his/her delegate. In case of a slight contravention by a lawyer, the President of the Bar shall send him a fraternal warning, without bringing him/her before the Disciplinary Council.

A lawyer may be brought before the Disciplinary Council only on the basis of a decision taken ex officio by the President or following a complaint or information submitted to him/her. Lawyers may be subjected to the following sanctions: a warning, a blame, a suspension from practice for a maximum period of three years, or the striking of his/her name of the roll for five full years. Disciplinary decisions are subject to appeal.

Moreover, the Beirut Bar Council adopted in February 2002 the Code of Ethics of the Legal Profession, which focuses more on ethics and moral guidelines than on specific requirements governing the conduct of lawyers. One of the ten main “rules” that should follow lawyers according to the Code of Ethics of the Legal Profession is related to legal aid:

“the lawyer will do his best and will comply with his/her obligations, even if his services are free of charge”³⁶.

³¹ Law Organizing the Profession of Lawyer - Articles 65-66

³² Law Organizing the Profession of Lawyer, Title Four – Discipline of lawyers, Articles 96 - 109

³³ Beirut Bar Association Internal Rules, Disciplinary Council, Articles 105 – 111.

Available in French at:

[http://www.bba.org.lb/admin/document/Le%20R%C3%A8glement%20Int%C3%A9rieur%20de%20l'Ordre%20\(fe1c44dcd616f054cb278d12e8059f4f\).pdf](http://www.bba.org.lb/admin/document/Le%20R%C3%A8glement%20Int%C3%A9rieur%20de%20l'Ordre%20(fe1c44dcd616f054cb278d12e8059f4f).pdf)

³⁴ Code of Ethics of the Legal Profession, adopted by the Council of the Bar on February 8, 2002. Available in French at:

http://bba.org.lb/content/uploads/Syndicate/151002090600860~141020111716364_R%C3%A8gles%20D%C3%A9ontologiques%20de%20la%20Profession%20d'E2%80%99Avocat.pdf (last accessed 23/11/16)

³⁵ Law Organizing the Profession of Lawyer – Article 87

³⁶ Code of Ethics of the Legal Profession, Preamble, Rule 4

Procedures

Civil and Penal cases

Legal aid in Lebanon may be provided in both civil and penal cases. Bar associations' Legal Aid Committees receive more penal cases than civil ones.

Civil cases

The procedure to request legal aid in civil cases is enshrined in details in the Code of Civil Procedure. The legal aid request is submitted in three copies, exempt from all the fees and expenses, to the registry of the competent court, with a certificate confirming the financial deficiency of the petitioner, issued by a local authority, and another certificate issued by the departments of revenues and treasury at the Ministry of Finance (General Department of Finance) stating the direct taxes paid by the petitioner.³⁷

The second copy of the request is then sent to the General Prosecution which shall give its opinion within five days, and the third copy is sent to the other opponent who is entitled to give his opinion also within five days.³⁸

Afterwards, the court calls for the petitioner and his opponent to a session held at the deliberation room. Then the court examines the demand and the conditions of acceptance as for the form and the subject before giving the decision of acceptance or rejection. This decision, which is notified to the opponents and to the General Prosecution is not subject to appeal.³⁹

If the request is approved, the court decision is then presented to the relevant Bar Association Legal Aid Committee (Beirut or Tripoli) which will assign a lawyer for the case.⁴⁰

During the interviews, all agreed on the fact that the procedure required for legal aid in civil cases is too difficult, and discouraging.

Penal cases

As mentioned above, this report focuses on CLDH project of provision of legal aid to vulnerable inmates in Lebanese prisons, which is limited to penal cases, as well as CLDH legal consultations at its premises. Access to legal aid should be guaranteed to all inmates during custody, pre-trial detention and imprisonment.

- Custody

Custody is regulated by Article 47 of the Lebanese CCP, where the rights of the arrested person are clearly listed: medical and legal assistance, together with access to an interpreter in case their native language is not Arabic. Although the clear outline of these guidelines leaves little space for interpretation, their application in practice is often not guaranteed. Furthermore, CLDH lawyers have been actively prevented in multiple occasions from visiting their clients who had just been arrested

³⁷ CCP, Article 429

³⁸ CCP, Article 428

³⁹ CCP, Article 432

⁴⁰ A guide to civil legal aid in Lebanon for citizens and foreigners, publication published by the Project to strengthen the independence of the judiciary and citizen access to justice in Lebanon, implemented by the National Center for State Courts (NCSC)

by the security forces. As reported by the Universal Periodic Review for Lebanon in 2015, many detainees at police stations do not have direct access to doctors or lawyers, sometimes being held incommunicado for days,⁴¹ nor are they provided with language assistance. According to law, preventive detention under Judicial Police should last for a maximum of 48 hours, renewable for a similar period based on the prosecutor's justified decision. As reported by CLDH lawyers, this period is often not respected,⁴² leading to serious consequences. The overcrowding of preventive detention facilities does not only affect the standards of detention, but also makes it harder for the arrested to access their rights, which have already been broken by arbitrary detention, especially access to legal aid.

- Pre-trial detention

If the results of preliminary investigation lead to the validity of the accusations against the arrested individual, then the case is transferred to the prosecutor to take the decision on the claim, before reaching the Investigative magistrate. At this stage, the prosecuted is transferred to a prison. This stage of detention is regulated by Article 108 of the CCP, according to which pretrial detention should last no longer than 2 months for a misdemeanor, renewable once, and no longer than 6 months for a felony, with the exception of accusations of terrorism, murder and drug related crimes. During this period, access to legal aid is still not guaranteed. First, as reported by the president of the BBA Legal Aid Committee, only 30 out of the 1400 cases assisted by the association in 2016 were referred by investigative judges. It often happens that at this stage, judges do not inform the accused of their right to have a lawyer, or exaggerate the waiting time for the appointment of the lawyer so that the accused decides to move forward with their investigation without one.⁴³ In the cases in which the accused present a request for the appointment of a lawyer to the investigative judge, the role of the lawyer remains very limited. During the investigations, in fact, lawyers do not have access to the file of their client, held in the investigative courts, and for the most serious accusations, they cannot assist them during the interrogations unless with Power of Attorney (PoA). Consequently, the lawyers are not able to monitor the development of investigations and to intercede for their clients.⁴⁴ Because of this issue, a high number of vulnerable inmates lack any sort of external support and legal assistance, and are at further risk of being held under arbitrary detention for a much longer period of time than the one prescribed by the law.

- Assistance during the trial

Article 78 of the CCP states that the Judge must appoint a lawyer or request one from the Bar Association in case the accused was not able to do so. Two situations arise as follows:

1) The application is referred from the court handling the conflict, namely: Criminal Court, Justice Council, the Appeal Court, the Individual Penal Judge, or the Investigation Judge. The application is referred from the relevant court, in front of which the accused announces the inability to assign a lawyer. Then, the relevant court processing the case forwards a letter to the relevant Bar Association (Beirut or Tripoli) requesting the allocation of a defense lawyer for the accused.

⁴¹Universal Periodic Review (2015), p 75

⁴²Interview with CLDH Lawyers

⁴³Interview with President of Beirut Bar Association Legal Aid Committee (26/11/2016)

⁴⁴Interview with CLDH Lawyers

As in the previous stages of detention, the implementation of the regulations into practice is not very effective. At this stage of the procedure, two main concerns arise related to some of the **courts' practices** and to the **length of the procedure**.

Regarding the courts' practices, it has been reported that some judges occasionally advise the accused not to take a lawyer in order to speed up the process and the trial. Moreover, as already reported by CLDH in 2014,⁴⁵ in some cases it happens that the sessions continue without any appointed lawyer for the accused, in flagrant violation with the right to a fair trial. Lawyers who are present in the courtroom may also be requested by the judge to represent the accused; in such case, the appointed lawyer if he/she agrees, will work on a pro bono basis and not receive any fees.⁴⁶

Another concern is related to the delay in appointing a lawyer. Once the court processing the case forwards a letter to the relevant Bar Association, the latter in some cases tends to take too long to appoint a lawyer, which has severe consequences for the accused, as the audiences will be postponed as long as no lawyers is appointed.

2) Personal request: in some cases, the request is presented directly from the detainee unable to assign a lawyer to the relevant Bar Association through the Prison Officer; the detainees requests to be assigned a lawyer who would mobilize the legal file of the detainee.

At the Beirut Bar Association, even though no precise statistics were available concerning the percentage of applications from the courts and personal requests, following information provided during the interviews, 90% of the referrals that reach the BBA come from the courts, the remaining being personal requests put forward directly at the Bar office. The intention the president expressed in 2014 to establish a system of regular visits from members of the Committee to the detention places did not bring the results hoped for. As reported by the President during the interview, in 2015 the Bar met with the General Director of all the prisons in Lebanon to discuss the definition of an office in the prisons reserved to legal aid lawyers. The meeting was followed by a written request, which was not taken into consideration, clear sign of the lack of interest from the authorities to have lawyers in the detention centers and to favor the provision of legal aid.⁴⁷

Distribution of cases to lawyers

Once the decision of granting the legal aid is notified to the Bar Association, the President of the relevant Bar Association will appoint a lawyer to defend the interests of the beneficiary.⁴⁸ In this regard, no criteria have been set up concerning the distribution of cases to lawyers.

Fees

When taking legal aid cases, any attempt by the appointed lawyer to receive fees from the client is deemed a behavioral offense that must be pursued.

⁴⁵ CLDH Report on Legal Aid, (2014), available online at:

http://www.rightsobserver.org/files/Legal_Aid_in_Lebanon_EN_Designed.pdf (last accessed on 25/11/16)

⁴⁶ Ibid

⁴⁷ Interview with President of Beirut Bar Association Legal Aid Committee (26/11/2016)

⁴⁸ For civil cases: CCP, Article 433

Report on CLDH project of Legal Aid to Vulnerable Individuals

As reported by several lawyers, in Lebanon, legal aid is usually perceived as an act of charity rather than a right, and the culture of volunteerism is unfortunately being lost.⁴⁹

Delivery of legal aid is funded exclusively from Bar Association revenues, and grants from international donors.⁵⁰

Throughout this research, it has not been possible to clearly evaluate the funds dedicated to the legal aid at the Beirut Bar Association. Yet, the President of the Legal Aid Commission said that there is no fixed budget that the BBA invests on Legal Aid on a yearly basis. Apart from the fixed costs for administration, the money invested by the Bar in fact depends on the number of cases that the committee assists. In the first 9 months of 2016, the President estimated that BBA lawyers have assisted 1400 cases pro-bono; receiving \$400 for each case. This amount is not a yearly fee, but a lump sum per case and per instance regardless the duration of the case. The total estimated budget for 2016 was at least \$560 000, which the President considers too heavy of a burden for the BBA to support on its own.⁵¹

At the Tripoli Bar Association, as the new board had just been appointed, no budget had been set yet during the research for this report. In 2014, 30 million Lebanese pounds (20,000 US Dollars) of the Bar's annual budget were allocated to the Legal Aid Committee.⁵² As stated by the new president of the TBA, for each case, the lawyers receive from the Bar association around 500 000 LBP. In the past, the budget reserved to the provision of legal aid only allowed the TBA to take approximately 90 cases per year, which is vastly insufficient in order to cover the demand, taking into consideration that the Tripoli Bar Association covers the district of North Lebanon, where several prisons are located (Tripoli, Halba, Amioun and Zgharta) suffering overcrowding, and therefore with a high percentage of inmates potentially in need of a lawyer.⁵³

While it was not possible to inquire in the method and time of payment of the lawyers at the Tripoli Bar Association, the president of the BBA Legal Aid committee stated that the lawyers are paid \$100 when they take over the case, and the remaining \$300 at the submission of the final report and follow up modules filled in.⁵⁴ In practice, unfortunately, it was well established during the interviews that some lawyers do not follow the case until the latter is closed.⁵⁵

Taking into consideration that some cases may take more than a year, the compensation given to the lawyers is barely sufficient to cover the costs of photocopying the court file, transportation fees and other related costs. It must be noted here that the procedure within the different courts is not homogeneous; for legal aid cases, photocopies of the court file are free in front of the military courts, as in other courts the photocopies must be paid. Despite the fact that one of the objectives of the President of the BBA Legal Aid Committee in 2014 was to request that photocopies of the court file

⁴⁹CLDH Report on Legal Aid, (2014), available online at:

http://www.rightsobserver.org/files/Legal_Aid_in_Lebanon_EN_Designed.pdf (last accessed on 25/11/16)

⁵⁰ Development and Cooperation, Calls for proposals and Procurement notices, Support to Legal Aid in Lebanon. Available online at: <https://webgate.ec.europa.eu/europeaid/online-services/index.cfm?do=publi.detPUB&aoref=134610> (last accessed on 25/11/16)

⁵¹ Interview with President of Beirut Bar Association Legal Aid Committee (26/11/2016)

⁵²CLDH Report on Legal Aid, (2014), available online at:

http://www.rightsobserver.org/files/Legal_Aid_in_Lebanon_EN_Designed.pdf (last accessed on 25/11/16)

⁵³CLDH (2014), Legal Aid in Lebanon, available online at:

http://www.rightsobserver.org/files/Legal_Aid_in_Lebanon_EN_Designed.pdf (last accessed on 23/11/16)

⁵⁴ Interview with President of Beirut Bar Association Legal Aid Committee (26/11/2016)

⁵⁵CLDH (2014), Legal Aid in Lebanon, available online at:

http://www.rightsobserver.org/files/Legal_Aid_in_Lebanon_EN_Designed.pdf (last accessed on 23/11/16)

to be free of charge when the accused is a beneficiary of the legal aid, the lawyers still have to pay to make copies.⁵⁶

Lack of selection criteria: trainee lawyers

The number of lawyers and trainee lawyers available to provide legal aid is quite large in Lebanon. In 2016, the membership is comprised of approximately 12,000 lawyers.⁵⁷

Even though it is not stipulated in any regulations pertaining to the legal aid system in Lebanon, in practice the majority of legal aid cases within the bar associations are assigned to trainee lawyers.⁵⁸

Through CLDH observations within its Legal Assistance program, testimonies of detainees, and the information provided during the interviews conducted in the framework of this research, most trainee lawyers who are appointed lack experience and legal skills when dealing with criminal cases. This is even more problematic when no specific supervision of the trainee lawyers – apart from the lawyers supervising their internships – is put in place for legal aid cases. The trainee lawyers are not allowed to sign the conclusions; the lawyer with whom he/she is trained is responsible for signing the conclusions, which means in theory that he/she is also responsible to supervise the case followed by the trainee.

In 2014, several trainee lawyers interviewed by CLDH in the framework of a research concerning the provision of legal aid in Lebanon, considered that legal aid cases should be a mandatory section of the three years' internship.⁵⁹

No limit of cases per lawyer

In theory, there is no mention of the number of cases lawyers are allowed to take each year. In practice, it was clearly mentioned during the interviews that no limit of cases is imposed to the lawyers willing to be appointed to follow legal aid cases. In 2014, there were reportedly some lawyers who took up to 50 cases at the same time.⁶⁰ On the other hand, the President of the BBA Legal Aid committee stated that the number of lawyers who applied to provide pro-bono assistance in 2016 is 713, a number he considers way too high for the requests. He raised his concern with regards to the motivation that lead lawyers to take over legal aid cases: he suggested that some of them do so for the compensation, rather than for the sake of guaranteeing vulnerable inmates their right to legal representation.⁶¹ Both these instances concretely raise serious doubts concerning the effectiveness of the follow-up of the cases.

Follow-up and supervision of lawyers

A major concern related to the legal aid system in Lebanon is related to the follow-up and supervision of the appointed lawyers. With regards to supervision, it has already been mentioned above that no specific supervision is put in place for appointed trainee lawyers. It is rather left entirely to the lawyers with whom the trainee lawyers are doing their internships, which is compatible with the statutory internship scheme, but inadequate in practice.

⁵⁶ Interview with President of Beirut Bar Association Legal Aid Committee (26/11/2016)

⁵⁷ Ibid

⁵⁸ CLDH (2014), Legal Aid in Lebanon, available online at:

http://www.rightsobserver.org/files/Legal_Aid_in_Lebanon_EN_Designed.pdf (last accessed on 23/11/16)

⁵⁹ Ibid

⁶⁰ Ibid

⁶¹ Interview with President of Beirut Bar Association Legal Aid Committee (26/11/2016)

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Concerning the follow-up of the appointed lawyer's work in legal aid cases, the actual follow-up system is not allegedly effective. In its early stages, the Legal Aid Commission of the Beirut Bar Association maintained a committee of experienced lawyers to monitor legal aid cases and provide guidance and advice to lawyers and trainee lawyers. This Committee no longer exists. Presently, within the Beirut Bar Association, upon the completion of a case, a Report on case proceedings must be submitted to the Committee by the appointed lawyer.

The following information is included in the Report:

- the appointed lawyer's name
- the date of appointment
- the client's name and nationality
- the court and case number
- the case type
- the number of hearings attended
- a summary of the case proceedings
- the date of judgment (with a summary of the court decision attached)
- a place for notes by the President of the Commission

In 2014, the system of follow-up of the lawyers' work was not transparent nor efficient: on one hand, the final reports were not in all cases submitted by the appointed lawyers; on the other hand, when the reports were submitted, there was no systematic supervision or oversight of the lawyers and trainee lawyers appointed in specific cases by the Committee. No evaluation feedback was sought for by either lawyers or the Bar Association.⁶²

Recognizing this lack of follow-up, the President of the BBA Legal Aid Committee implemented a restructuring of the committee in 2014, by creating four Sub Commissions; one of them is dedicated to the follow-up of the cases and supervision of lawyers. In addition to the final report, during their assistance the lawyers must fill in a follow-up table stating each audience's attendance, what happened and the status of the case.⁶³ This is an encouraging step towards a more effective follow-up of the cases.⁶⁴ However, the effectiveness of this measure also depends on the work and follow-up of the tables by the members of the Sub Commission. Also, the lawyers are only required to submit these reports at the end of the case, thus limiting the positive impact that the supervision of the lawyer could have on the outcome of the case.

Complaints against lawyers

Complaints can be filed against lawyers to the President of the Bar Association, as mentioned above. As was reported in CLDH report on legal aid in 2014, even though several breaches of appointed lawyers are often reported both by judges and the assisted detainees, it appears that very few actions are taken in order to file a complaint against lawyers. The research carried out in 2014 outlined that most complaints were informal, and led to the appointment of another lawyer. The only disciplinary measure taken was the removal of the name of the lawyer who is subject to the complaint from the

⁶²CLDH (2014), Legal Aid in Lebanon, available online at:

http://www.rightsobserver.org/files/Legal_Aid_in_Lebanon_EN_Designed.pdf (last accessed on 23/11/16)

⁶³ BBA Follow-up modules

⁶⁴ Interview with President of Beirut Bar Association Legal Aid Committee (26/11/2016)

list of legal aid lawyers.⁶⁵ During the interview, the President of the BBA Legal Aid committee stated that to allow the filing of formal complaints, the relative modules were delivered to the prisons, but he also suggested the possibility that the Prisons' Guards are not making them available to the detainees, who may not be aware of this possibility at all.⁶⁶

Lack of administrative support

At the Beirut Bar association, the person in charge of that support is also in charge of the Bar's other commissions. All information collected during the interviews converges to assert that more human resources would be needed in view of the overload of tasks.

Cessation of the legal aid

The legal aid may cease due to the following reasons:

- 1) Death of the beneficiary. In this case, the cessation does not have a retroactive effect. If the successors need the aid in order to proceed in the case, they must submit a new demand.⁶⁷
- 2) Annulment of the decision of granting the legal aid. The court granting the legal aid may, at any stage of the lawsuit, even after the conclusion of the trial and the procedures for which the aid was granted, annul its decision by itself or upon the demand of the General Prosecution, the Ministry of Finance or one of the opponents, if it was proved that the circumstances for which the aid was granted were not valid or changed. In this case, the aid ceases with a retroactive effect and the opponent obliges the beneficiary to pay the advanced charges and fees immediately, and if it was proved that the beneficiary committed fraud and forgery, he shall be transferred to the competent penal authorities.
- 3) Annulment of the decision of granting legal aid in case the beneficiary appoints a private lawyer with PoA.⁶⁸

CLDH project

CLDH has been providing legal representation to vulnerable inmates since 2009. Progressively, the number of persons in prisons assisted by the NGO every year has increased from a few dozen per year at the beginning of the project, to 100 in 2012, reaching 675 in 2016.

In 2013, the legal assistance team of CLDH included 3 members, 2 lawyers and a coordinator. In 2015, this team acquired two additional members, reaching 5 lawyers, each of them responsible for a specific region of the country: Beirut/Mount Lebanon (2 lawyers), Tripoli/Akkar (1 lawyer), Mount Lebanon/South Lebanon (1 lawyer) and the Beqaa region (1 lawyer). Priority is given to inmates who could be released immediately or who are particularly at risk of unfair trials.

Overall, the team now provides assistance in 21 detention centres all over the country. It also assists detainees prosecuted by the military court, where civil rights are particularly at risk of being breached

⁶⁵ CLDH, Legal Aid in Lebanon (2014), available online at:

http://www.rightsobserver.org/files/Legal_Aid_in_Lebanon_EN_Designed.pdf (last accessed 23/11/16)

⁶⁷ Interview with President of Beirut Bar Association Legal Aid Committee (26/11/2016)

⁶⁸ CCP, Article 437

⁶⁸ CCP, Article 436

by the lack of guarantee of independence and impartiality.⁶⁹

This growth of the team reflects the necessity of a more urgent response to the needs of the increasing number of vulnerable inmates all over the country who do not have access to the right of legal assistance sanctioned by the Lebanese law. Together with widening the scope of action of the legal aid project, the expansion of the CLDH team also allowed the lawyers to provide assistance to inmates for a longer period of time. This has given particularly crucial results in several cases where the inmates had been accused of major crimes and would have not been able to prove their innocence without the assistance of a lawyer.

Intake process

CLDH lawyers work as a coordinated team based on the location, type of case and service needed, the lawyers refer clients to each other, and work on the same case together. In order to guarantee the quality of their service, the lawyers meet once per week at CLDH office. During these meetings and together with the programme manager, they confront each other on the cases they are working on, they check on the cases status and intake new cases.

The selection of the beneficiaries is based on common criteria that the lawyers established with CLDH at the beginning of the project. First, the lawyers must make sure that no lawyer is assisting the beneficiary they were referred. If that was the case, they should discharge the beneficiary. Sometimes it happens that lawyers do not make requests for PoA, but offer their help to the lawyer who is responsible for the case.

Second, inmates who need assistance should not be accused of more than two cases. Exceptions can be made based on specific humanitarian situations discussed during the team meetings, including health issues and mental or physical disabilities, or if the required assistance is limited to the merging of sentences.

Third, after reviewing their file, the lawyers have the possibility to refuse to provide assistance to inmates whose cases would not benefit from their services, such as drug trafficking, rape, kidnapping or the combination of these accuses. Lawyers could also discharge cases in which their assistance would be needed for an excessive duration of time, meaning years. Well aware that the decision not to provide legal aid to the cases previously mentioned could result in very critical consequences for the inmate, the lawyers address these referrals very carefully during their weekly meetings and make sure to meet the inmates before taking their final decision.

Referral system

CLDH lawyers pay regular visits to prisons all over the country to meet their clients and provide their services. Because of the consistency of their work and the visible positive results of their assistance, the lawyers have gained the respect of prison directors, guards as well as NGOs working within the penitentiary system, including those offering services within the prisons' walls.

⁶⁹Alef (2016), A Roundtable Discussion On Realizing The Right To A Fair Trial In Lebanon

Presentation of inmates

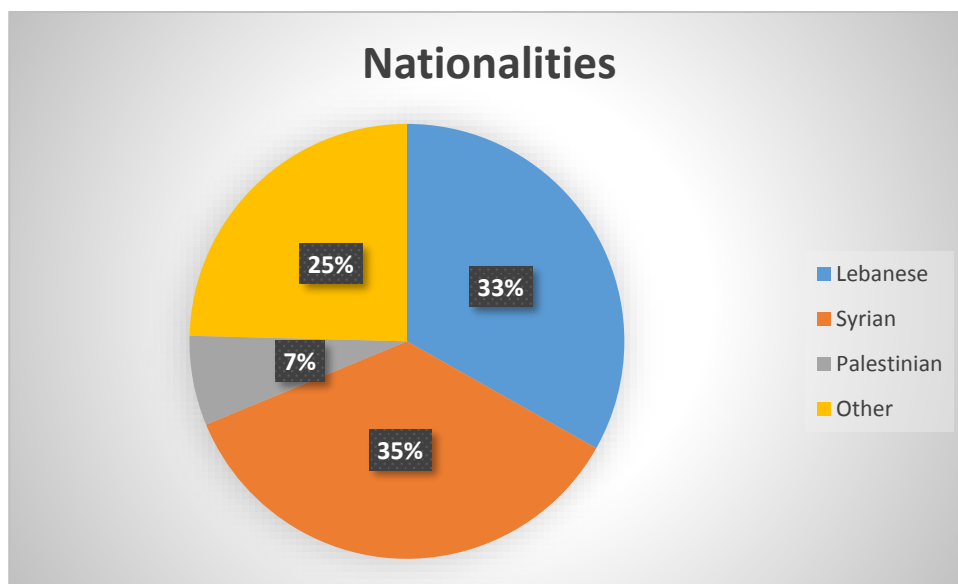
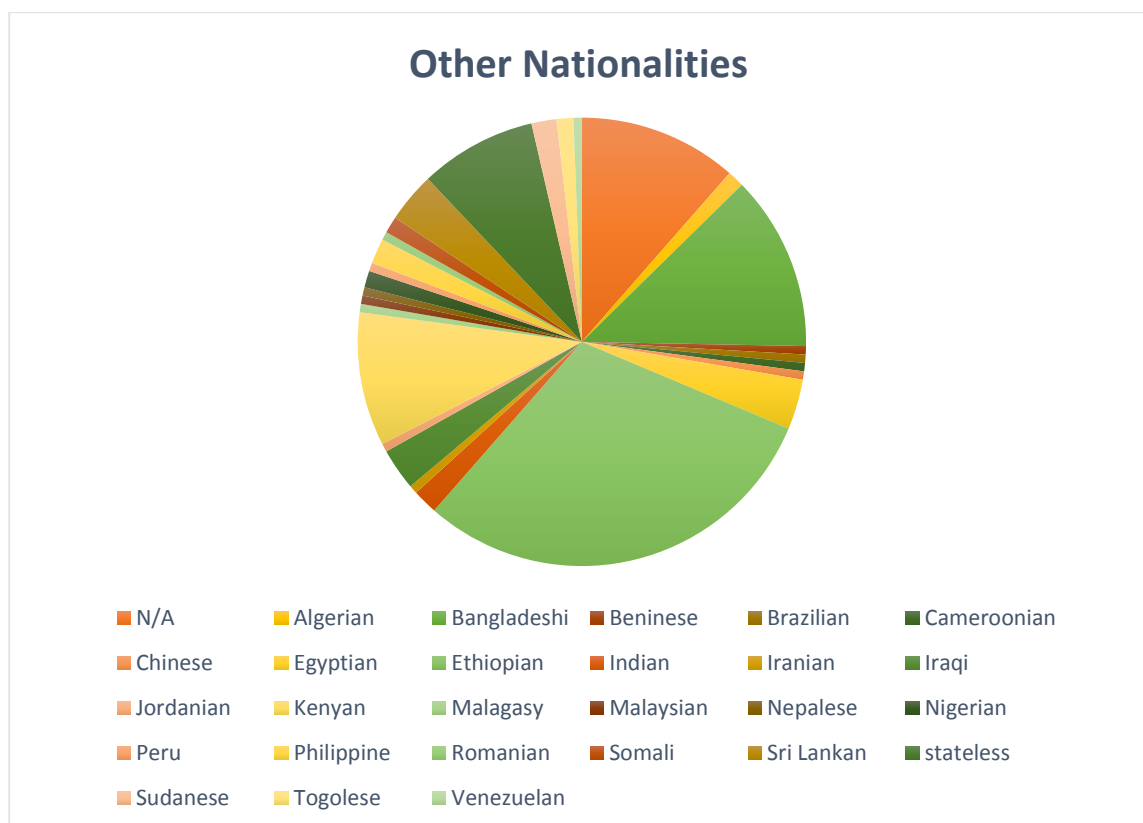


Figure 1. Nationalities of Assisted Vulnerable Inmates



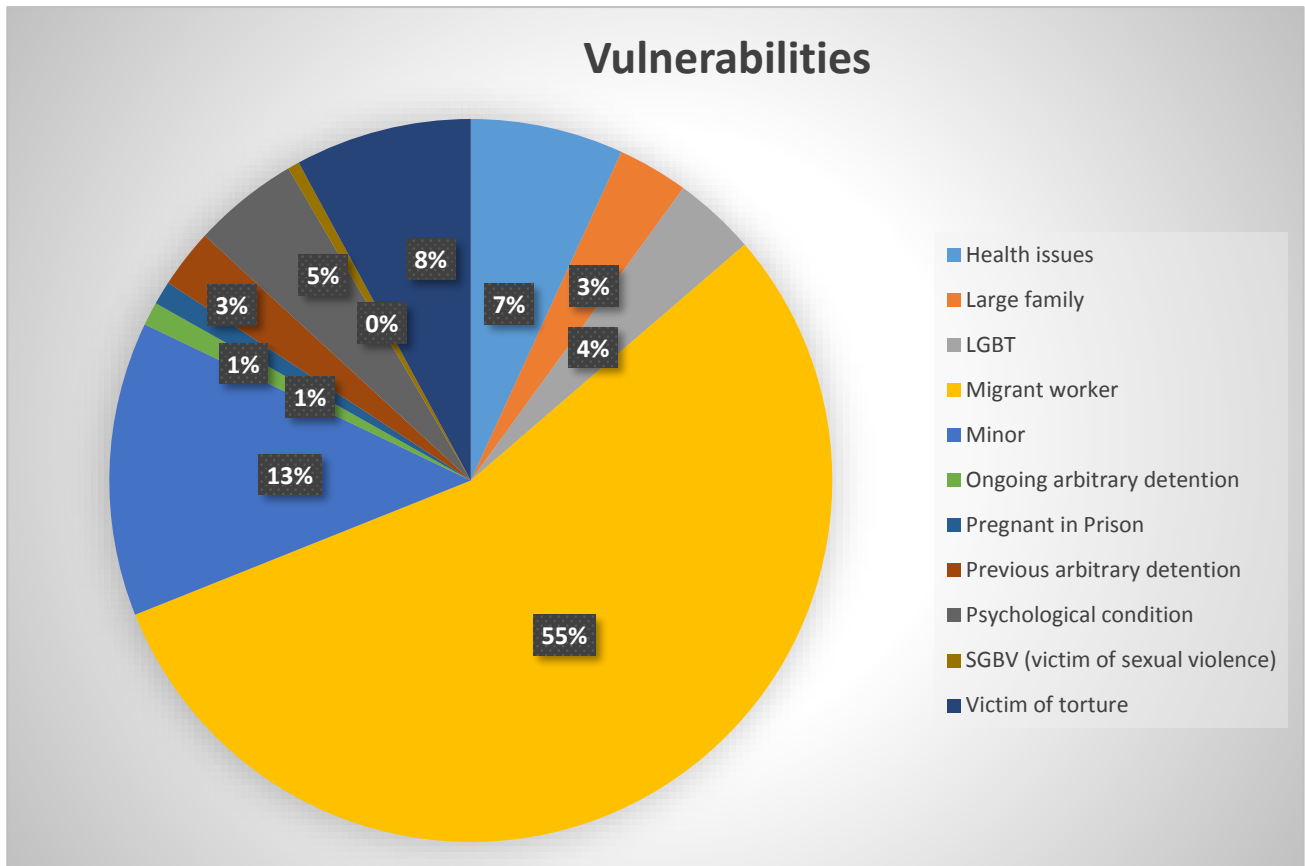


Figure 2. Vulnerabilities of Assisted Inmates

CLDH lawyers assist inmates of any nationality, gender and sexual orientation. According to the database of 2016 interventions, 70% of the inmates assisted by CLDH lawyers between January and September of 2016 are male, 29% are female and 1% are LGBTI. More than 29 nationalities are represented in the group of assisted inmates, including Ethiopian, Bangladeshi, Kenyan and Sri Lankan nationals, who belong to the particularly vulnerable category of migrant domestic workers. The majority of assisted inmates are Lebanese and Syrian, relatively 224 and 240, while Palestinians are the third most represented nationality.

A quarter of the assisted inmates are detained in Roumieh Central Prison, the biggest and most important prison in the country, 131 are in Qobbeh Men and Women prisons, in Tripoli, and 106 in Zahleh Men and Women prisons.

While all the beneficiaries receiving legal assistance are not able to afford a lawyer on their own, a quarter of them have additional specific vulnerabilities: mental and physical health issues, minors, migrant workers, victims of torture/arbitrary detention and LGBTI.

Refugees

Two of the most assisted nationalities are mainly composed of refugees. The refugee status of both Syrians and Palestinians in Lebanon and the vulnerabilities that derive from it are amplified by the often hostile legal and political regulations that limit their freedom and civil rights. Furthermore, their social network within the Lebanese society is often not strong enough to allow them access to legal aid if not through NGOs.

Migrant workers

Migrant workers often find themselves in similar conditions of limited freedom, exploitation and limited civil rights, due to the Kafala system that effectively results in their legal dependence on their employers. The majority of the 105 migrant workers, most of which are female, who are assisted by CLDH lawyers are accused of theft, prostitution, murder and escape. The psychological pressure they often live in and the language barrier most of them face in their everyday life are vulnerabilities that would most probably result in arbitrary detention and unfair trial without legal aid. Furthermore, some of the cases require long term assistance, especially accusations of murder. 71 of the migrant workers assisted by CLDH lawyers were released following the emission of the sentence, either because found innocent, or because they had been held in arbitrary prolonged pre-trial detention. It is important to underline that once released from prison, foreign nationals are not free, but are transferred to the General Security Office (GSO) for the “regularization” of their residency status in the country or their deportation. This further form of “administrative” detention that is not provided by the law almost always turns into prolonged arbitrary detention.

Minors

At least 24 of the assisted inmates are minors. They are often detained in the same facilities as adults (police stations) and do not receive the specific care they should be devoted. Among the assisted minors, only three are female, and their nationalities are Lebanese, Syrian and Palestinian. Being a minor represents a further vulnerability to the refugee condition of the majority of these beneficiaries. The most common accusations among the assisted detained minors are theft, murder and drug related crimes as well as illegal residence.

People suffering from mental and physical health issues

Victims of torture and people affected by medical and psychological issues are not guaranteed the cures and treatments that their condition requires, and this lack of care sometimes results in permanent disabilities and irreversible health conditions. In October 2016, following a visit to Qobbeh Men prison in Tripoli, CLDH assisted an inmate who had a very dangerous infection to his leg after being shot during his arrest. Because of the lack of proper treatment, this wound infection could have resulted fatal for him. The successful transfer of the inmate to the hospital only represents a temporary solution for him and all the other inmates who are not only not receiving proper medical treatments, but also live in overcrowded prisons lacking hygiene, a proper ventilation system and the provision of healthy food.⁷⁰ Another example of the lack of cure and consideration of the mental health of inmates in Lebanese prisons is the case of a beneficiary who was arrested in 2006. Because of his mental health problems, he was imprisoned in the so called “blue building” in Roumieh prison, the psychiatric wing, where he was held until 2016. He was accused of a crime which he had supposedly committed in 2013, while he was in prison, because the prosecutor, investigative judge and court forgot he was there. This case does not only reflect the negligence of the judiciary and penitential system, but also and in particular, the lack of legal assistance and special care for vulnerable inmates with mental health issues.⁷¹

LGBTI

The detention of LGBTI is in the vast majority of the cases purely due to their sexual orientation, thus

⁷⁰ CLDH Shadow Report on living conditions in Lebanese prisons

⁷¹ CLDH Lawyer

representing arbitrary detention and a breach of human rights in its own essence. CLDH lawyers have at least 7 beneficiaries who have been detained because LGBTI.

The case of one beneficiary is particularly representative of the breaching of multiple human and civil rights of detainees in Lebanese prisons, and the lack of a system of defense and support of vulnerable individuals. *Anonymous is a LGBTI. After being harassed and refusing unwanted attentions by an influential individual, he was reported by the latter to security forces as a terrorist. He was arrested in 2015 under accusation, and tortured during interrogation, held in a 2x2-m cell with another inmate and recurrently harassed by the guards. He did not have access to legal aid until 11 months after his arrest and was only able to contact his family after 8 months.*

Types of assistance/interventions

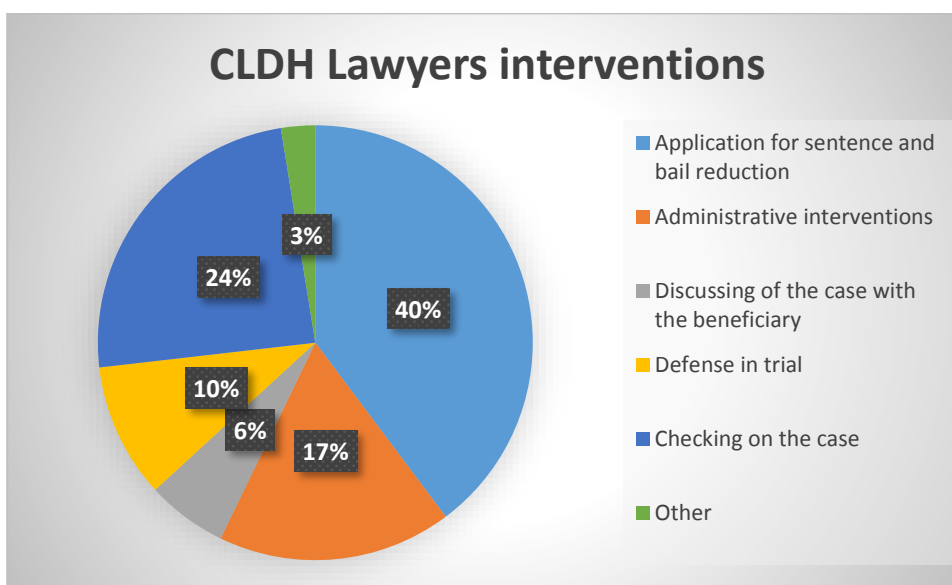


Figure 3 CLDH Lawyers interventions

The role of the lawyers as guarantors of a fair treatment and management of their beneficiaries' cases makes access to legal aid necessary not only during trial, but from the very beginning of detention, at the moment of their arrest. The services provided by CLDH lawyers during the pre-trial and trial stages of detention are not limited to the preparation of defense and attendance to trial sessions, rather, they encompass a much wider range of services, which confirms the importance of their delivery. A very common example of arbitrary detention, in fact, is caused by faults in the Lebanese bureaucratic and administrative system: the delivery of one document from court to prison can often make the difference between just freedom and arbitrary detention, and lawyers represent the mediators who can make this difference.

Follow-up interventions

Between the beginning of 2016 and December 2016, CLDH lawyers provided legal follow-up or defense with Power of Attorney to 438 out of the total of 675 assisted beneficiaries. These instances usually consist of cases where the assistance of the lawyer can determine the release of the beneficiary in a short time, meaning few months, or of cases where the inmates are at high risk of unfair trial. The assistance of the lawyers then is ensured until the end of the case. Due to extended bureaucratic times and in accordance to the beneficiary's needs, CLDH lawyers sometimes offer prolonged legal

aid without making request for a PoA. This can be considered an alternative mechanism identified by the lawyers in order to provide the best service to their clients despite the obstacle presented by the faults in the bureaucratic system. The effective provision of legal aid without PoA is also a proof of the arbitrary character that defines the arrest and detention of many inmates: the interventions run by the lawyers are often simple procedures that correct a wrong embedded in the judiciary and penitential systems. It is not rare to find cases in which the lawyers' assistance was limited to the requests of release to the judge and/or the delivery of the document of release from court to prison, necessary proof of the judge's sentence. Due to the lack of this document, the assisted inmates have often overstayed their required time in prison, thus falling into arbitrary detention.

Out of a total of 3364 interventions made by CLDH lawyers between January and December 2016, 2856 are follow ups or defense with PoA, proving that more than half of the services provided consist of long term assistance to the inmates. The percentage of this sort of assistance has almost doubled compared to 2015. The majority of these interventions takes place outside of court and consists of applications for sentence and bail reduction; check on the status of the ongoing case, administrative tasks, visits to the detainee to discuss the case.

The application for release on bail, bail reduction and concurrency of sentences summed up consist of more than 70% of the interventions of follow-up. The recurrence of these interventions results from two main circumstances specific to the Lebanese system. First, the judges tend to reject most of these requests, and, as reported by CLDH lawyers, not to provide a justification for their refusals of bail reduction, because they are not required to. As proven by the cases of trials deferment, judges' professionalism cannot be guaranteed with regards to this issue, thus making their decisions questionable. Second, the main vulnerability of the inmates assisted by CLDH is economic. As a consequence, the reduction of bail, in respect of the Lebanese law, would represent for them a chance to limit their pre-trial detention.

In this regard, it is particularly important to underline the high number of requests of release on bail as they usually take place during this period. As reported by CLDH lawyers, in several cases the duration of pre-trial detention, as regulated by Article 108 of the CCP, is overdue and the inmates are kept in prison arbitrarily. This is sometimes due to a political factor, depending on the accusation, or to the slow pace of the investigation, especially in Baabda Indictment Court, that covers the cases of Mount Lebanon. In such a framework, the request of release on bail is sometimes a way to achieve the release that the inmates should already be granted by law. *Three cases of theft are particularly relevant in displaying the issue of arbitrary pre-trial detention: three migrant workers detained at Qobbeh Women's prison, Tripoli, accused of theft, were held in pre-trial detention for more than a year and a half, three times as much as prescribed by law. Furthermore, the bail set by the judge reached few millions of Lebanese Pounds, which the inmates could not afford. In such cases, the request of bail reduction and release on bail represent tools used by the lawyers to oppose arbitrary detention.*

Defense with Power of Attorney

From January throughout December 2016, CLDH lawyers have attended 130 court sessions. Among the most common issues they face while providing this sort of long term assistance is the postponing of the beneficiary's court trial sessions. This usually happens for reasons that are out of both the lawyers' and the beneficiaries' control. Among CLDH lawyers' interventions, it is not rare to find

cases in which the trial session was postponed due to multiple flaws in both the judiciary and penitential systems. The lack of transportation for the accused from the prison to court is a recurrent issue among the cases of CLDH lawyers. With regards to the judiciary, the delays of the trials result from the fixation of a session on a day in which the court was closed from an unjustified decision taken by the judge or his/her unjustified absence, as well as from the delay in appointing a lawyer and a failure in informing the other parties involved in the trial. With this regard, the *case of a beneficiary detained in Baabda Women's prison shows the over recurrence of trial deferral: the inmate saw her session postponed nine times over a period of six months before the sentence was pronounced.*

Legal advice to inmates

The provision of legal advice sometimes takes similar forms of interventions as the cases follow-up, but are only offered once or twice to the same inmate and sometimes do not involve any direct contact with the beneficiary. The short-term nature of these interventions does not make them less fruitful or less necessary than the follow-ups: it often happens that cases are referred to CLDH lawyers of inmates asking to check on their status with the judge, which is the first crucial step to ensure the access to the right of legal aid to every vulnerable inmate. As previously mentioned, acting as a bridge between the inmate and the judiciary system represents one of the main roles of the lawyers.

Overall, the variety of the services provided by CLDH lawyers stands as a proof that in order to guarantee a free trial and prevent arbitrary detention, the provision of legal aid is as essential in the pre-trial period as during the trial itself.

Results of the interventions

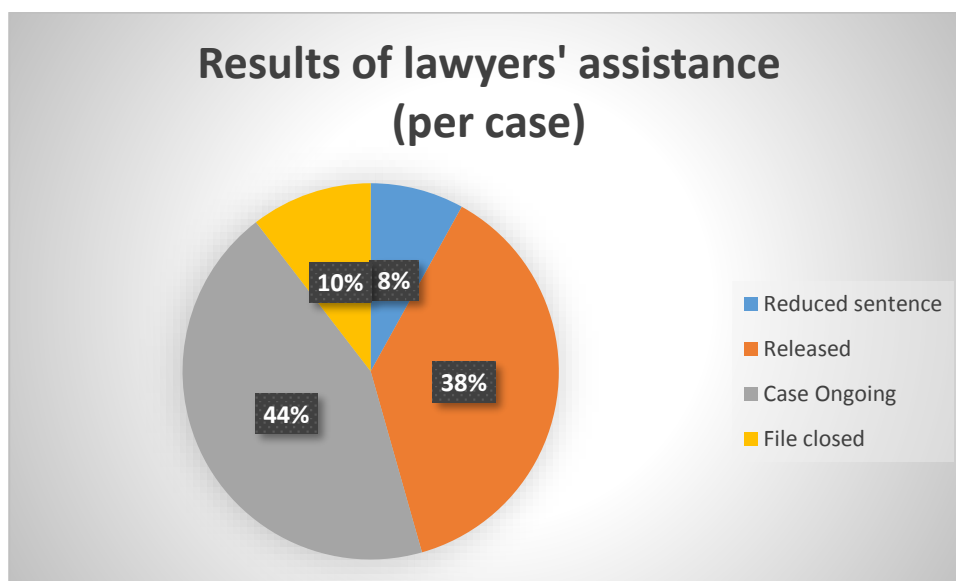


Figure 4. Results of CLDH Lawyers' assistance

Out of the 675 beneficiaries assisted by CLDH lawyers throughout 2016, 44% of the cases were still ongoing at the period end, 10% were closed because the client either could not be helped or already had a lawyer. Overall, 54 beneficiaries saw their sentence and detention reduced, while 252 were released, corresponding to 38% of the total number. This percentage is close but higher compared to that of beneficiaries released in 2015, 57, a third of the total number of assisted detainees.⁷² While the main success of CLDH's project is to guarantee to vulnerable inmates their human right to access to legal aid and equal opportunity of defense compared to other inmates, the impact of the provision of legal aid by CLDH lawyers is becoming increasingly positive and concrete: half of the assisted detainees benefited from it. In particular, 19 detainees resulted innocent after their sentence was pronounced.

Despite their sentence being pronounced, 9 beneficiaries could not leave the prison, because they could not afford to pay their judiciary fees, and will thus have to stay in prison an extra period in order to even their debt with the Treasury, as per Lebanese law.⁷³ This issue shows the strong impact of economic vulnerability on the detainees, which does not only result in limited access to legal aid, but also in longer permanence in prison.

⁷² CLDH, Legal Assistance in Lebanon in 2015 – Facts and Challenges, available online at:

http://www.rightsobserver.org/files/Legal_assistance_2015_-_Facts_and_Challenges.pdf (last accessed 25/11/16)

⁷³ Lebanese Code of Criminal Procedures, Article 415 (Annex 1)

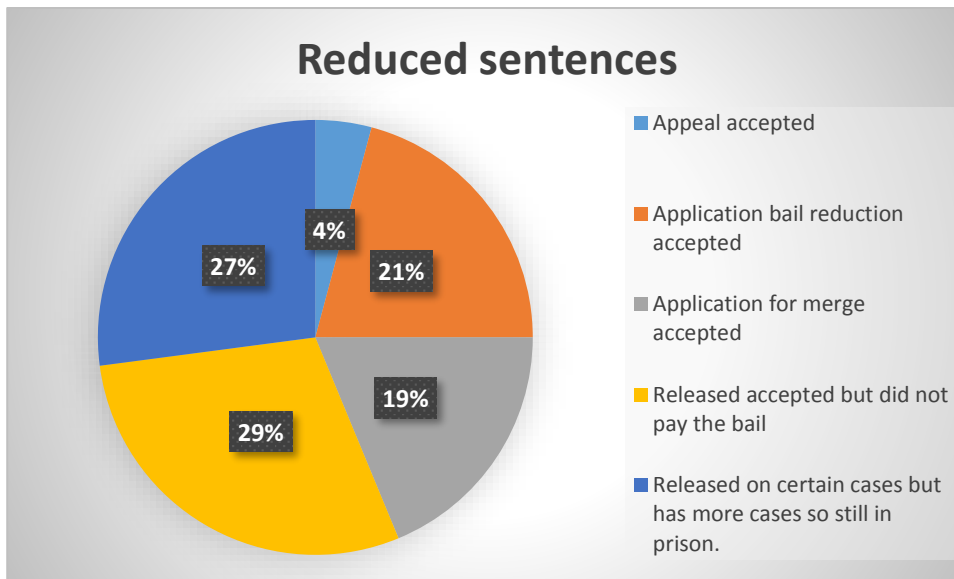


Figure 5. Reduced Sentences following CLDH Lawyers' assistance

The highest number of successful results regards beneficiaries who are hold in arbitrary detention before their trial. Because of the low rates of referrals of pre-trial vulnerable cases to the bar associations by the investigative judges, a lot of the cases assisted by CLDH lawyers belong to this category, and their success in reducing the bail results in freedom from arbitrary detention for 29% of all the assisted beneficiaries.

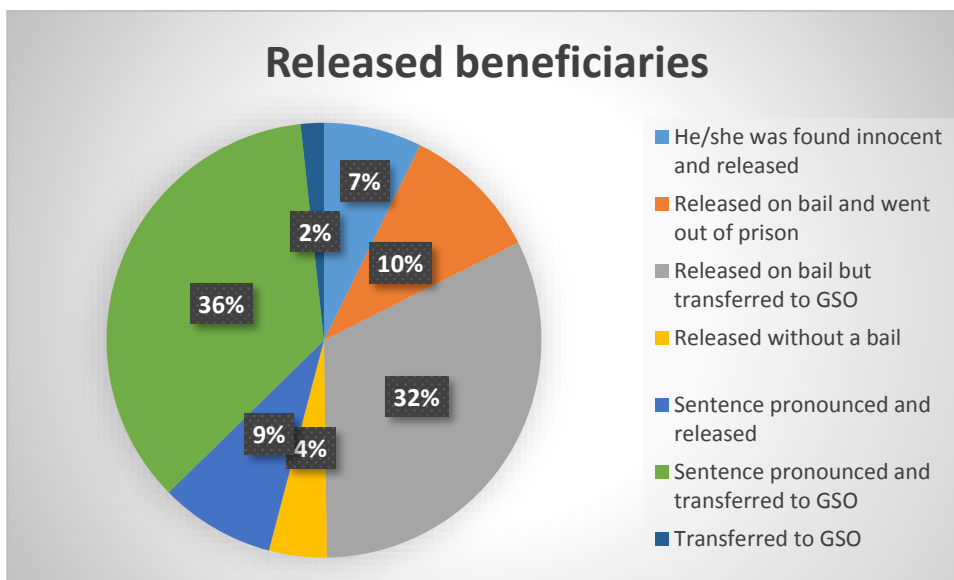


Figure 6. Assisted Beneficiaries released following CLDH Lawyers' Assistance

By visiting prisons and interacting directly with the detainees and all the referring agents, CLDH lawyers provide an alternative to what is proven to be a poor service provided by the Bar Associations and the court referral system.

Legal counseling at the Center

Between May 2015 and December 2016, 525 beneficiaries were assisted by CLDH through legal counseling. This project is run in the office of the organization in Beirut, and involves mainly one lawyer who provides assistance in person or on the phone. The cases are referred to the lawyer by different agents: Centre Nassim, the rehabilitation center for victims of torture, other CLDH beneficiaries and other NGOs. The service of legal counseling includes a variety of interventions, depending on the specific needs of the beneficiaries, and aims to tackle the specific legal challenges faced by the beneficiaries.

Presentation of beneficiaries and services provided

CLDH provides legal counseling to beneficiaries of any nationality, age and gender. 55% of the assisted beneficiaries are male, 45% female. Among the most vulnerable beneficiaries of legal counseling 76 are victims of torture of all nationalities, 246 are Syrian refugees with legal issues, and 85 are migrant domestic workers. As personal referring is a common mean through which beneficiaries contact CLDH and due to the tight relationships among individuals belonging to the same communities of migrant workers, some nationalities are more numerous than others. The Cameroonian community is one among the most represented, together with the Ethiopian and Filipino communities.

As is the case for the assisted inmates, the beneficiaries of legal counseling display specific vulnerabilities that are either worsening their difficult situation, or are determined by the Lebanese laws, that thus often constitute the source of their problems. Depending on their vulnerabilities, the beneficiaries have different needs.

- Victims of torture

As previously reported, the practice of torture is not eradicated in the Lebanese penitential system. Among the beneficiaries who receive legal counseling at CLDH, 76 have been victim of torture either in Lebanon or in their home country. 47% of them are Syrian refugees, many of whom fled to Lebanon after being arbitrarily arrested and tortured in Syria, mainly for political reasons. In addition to the psychological and physical conditions in which these beneficiaries live because of the trauma and torture they have been subjected to, they also have to face heavy legal challenges due to the lack of recognition of legal status to refugees.⁷⁴ The combination of these vulnerabilities makes legal counseling particularly important for these beneficiaries, in particular with regards to the renewal or regularization of their legal stay in the country, as they need stability and safety in order to be able to succeed in overcoming the trauma of torture.

With regards to victims of torture, in fact, legal counseling is an important part of a more comprehensive range of rehabilitation services provided to the beneficiaries by Centre Nassim.

- Migrant Domestic workers

⁷⁴ CLDH (2016), Legal challenges faced by refugees from Syria, available online at: http://www.rightsobserver.org/files/Legal_challenges_for_refugees_from_Syria_2016_-_web.pdf (last accessed on 30/11/16)

In Lebanon, the employment of foreign workers is regulated by the Kafala (sponsorship) system, domestic workers in particular. It is comprised of various customary practices, administrative regulations, and legal requirements that tie a migrant domestic worker's residence permit to one specific sponsor in the country. Migrant domestic workers are thus excluded from the Lebanese labor law, denied their freedom of association, not guaranteed freedom of movement, and their human rights are often breached.⁷⁵ 85 migrant workers have been assisted by CLDH between May 2015 and December 2016. Most of them are from Cameroon, 53% - Philippines, 13%, and Ethiopia, 10%, - and 98% of them are women. Exploitation, lack of payment and false accusations are the main reasons why these beneficiaries seek legal counseling. Most of them want to travel back to their country or break free from the contract with their sponsor, due to mistreatment and lack of payment. The latter is a form of exploitation that a lot of beneficiaries report to be victim of. The case of one beneficiary is particularly representative of the common failure of employers to pay migrant workers. *The beneficiary had worked for two years without being paid by her sponsor, before she left the employer's house and went to her consulate to seek help. It is important to underline that she could not go to the police to report the abuse because she would have been arrested as she had "escaped" and her sponsor held her ID. The consulate contacted the employer who said to send her back and that he would have paid her. Instead, he forced her to sign a document saying that she had received money even if she actually did not. The beneficiary then contacted the CLDH lawyer for help.* In most cases, the lawyer works as a negotiator between the beneficiary and the sponsor, especially when the sponsor refuses to transfer the sponsorship when the beneficiary does not want to renew the contract.

- Refugees

Legal counseling is particularly important for refugees because many of them do not have access to accurate information concerning the regulations and procedures for the renewal of their residency permit in Lebanon. Most of the refugees who benefit from CLDH legal counseling come from Syria: since May 2015, 237 refugees from Syria have been assisted, including 8 Kurds from Syria and 12 Palestinian Refugees from Syria (PRS), both adults and minors.

As most of the Syrian refugees who seek assistance at CLDH do not have a residency permit in Lebanon, the legal counseling can take the shape of assistance through the application process, especially with regards to the required documentation, GSO rules and fees payment. Direct assistance for resettlement in third countries through UNCHR or embassies is also provided, especially for the most extreme cases. If the cases are emergencies, CLDH lawyer refers them to other NGOs which can provide faster assistance.

⁷⁵Kafa (2012), *Policy Paper on Reforming the "Sponsorship System" for Migrant Domestic Workers: Towards an Alternative Governance Scheme in Lebanon*, available online at: <http://www.kafa.org.lb/StudiesPublicationPDF/PRpdf47.pdf> (last accessed on 30/11/16)

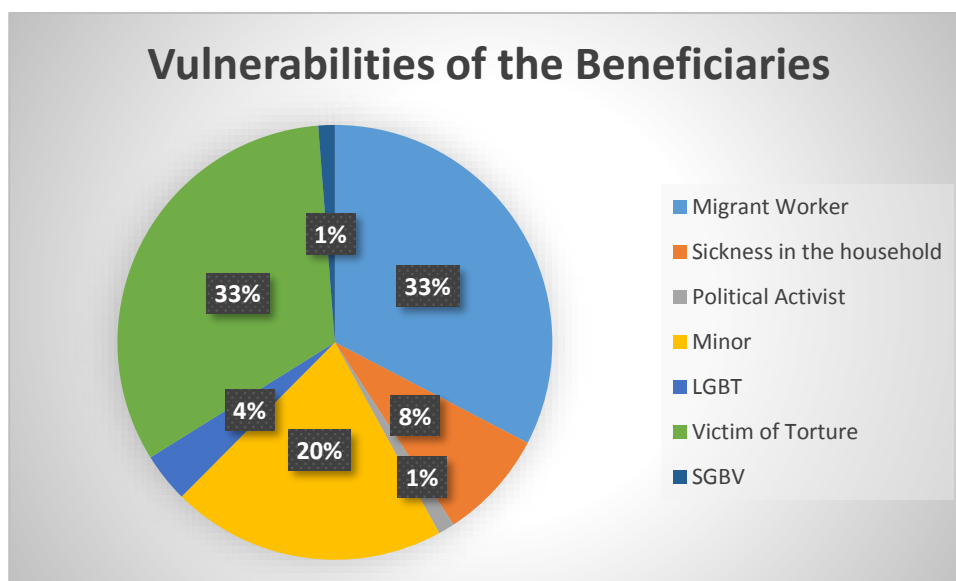


Figure 7. Vulnerabilities of Beneficiaries of Legal Counselling

Challenges and successful results

As is the case for the provision of legal assistance to vulnerable inmates, legal counseling is shaped to best suit the vulnerabilities and needs of the beneficiaries. The most important challenges faced in the provision of this assistance are the law itself: when the regulations and laws go against the beneficiaries' human rights, the lawyer has her hands tied and it is more difficult for her to improve the situation of the beneficiaries or to find a solution to the issues they seek assistance for.

The laws that determine and regulate the legal status of refugees from Syria and migrant domestic workers represent a key example of obstacles embedded in the legal system itself.

In practical terms, in cases of renewal of residency permit, resettlement and travel to a third country, legal assistance per se is not enough to provide a proper solution, because even when assisted through the process, the beneficiaries often cannot afford to pay for the renewal fees or exit visa required to complete the procedures. In these cases, CLDH provides financial assistance together with legal counseling, covering the expenses that would otherwise prevent legal counseling from leading to concrete positive outcomes.

For 161 beneficiaries, out of the 525 who have been assisted between May 2015 and December 2016, CLDH legal counseling led to successful results. Accurate and detailed information about labor law and the Kafala system have been delivered to more than half of the beneficiaries. By making them aware of their rights and the procedures, legal counseling in its most basic form has empowered the beneficiaries, facilitated their engagement with the law and the system, and prevented them from taking steps that could have led to their arrest or put them in danger.

Among the most successful cases, 31% are cases of resettlement or of moving to a third country. Vulnerable refugees from Syria are the main beneficiaries of resettlement, which usually takes place either through direct referral of the cases from CLDH to UNHCR, or through direct cooperation with the embassies of the receiving country. One particular case of resettlement represents an example of success. *A beneficiary, Syrian refugee came to CLDH to seek assistance for resettlement as his*

daughter was very sick and could not receive proper treatment in Lebanon. Through their legal counseling, CLDH succeeded in helping this beneficiary and his daughter to move to Canada, where she is now being cured.

A common form of assistance requested by migrant domestic workers concerns the transfer of sponsor or return home. CLDH cooperates with the beneficiaries' consulates, refers the cases to them and thus facilitates the process of repatriation, especially for migrant workers who fled their sponsors' house or do not have access to their documents. When leaving Lebanon is neither a desire nor an option for the assisted migrant domestic workers, the transfer of sponsorship is a very successful result, as in some cases it prevents them from being subjected to further exploitation and sets them free from a life and work they are often deceived into, or simply from an arrangement that they do not want anymore. In 5.8% 3% of the successful cases, the CLDH lawyer has managed to improve the working and living conditions of the migrant workers and to make their sponsors respect their rights. The following case is useful to raise awareness of the extent to which the exploitation of migrant domestic workers is embedded in the Lebanese economic system. *The beneficiary addressed CLDH because her employer was not paying her. She was working for a famous hotel in Beirut, where the respect of workers' rights would be expected to represent a priority. Thanks to CLDH intervention the employer paid her the previous salaries and started paying her regularly, as the law prescribes.*

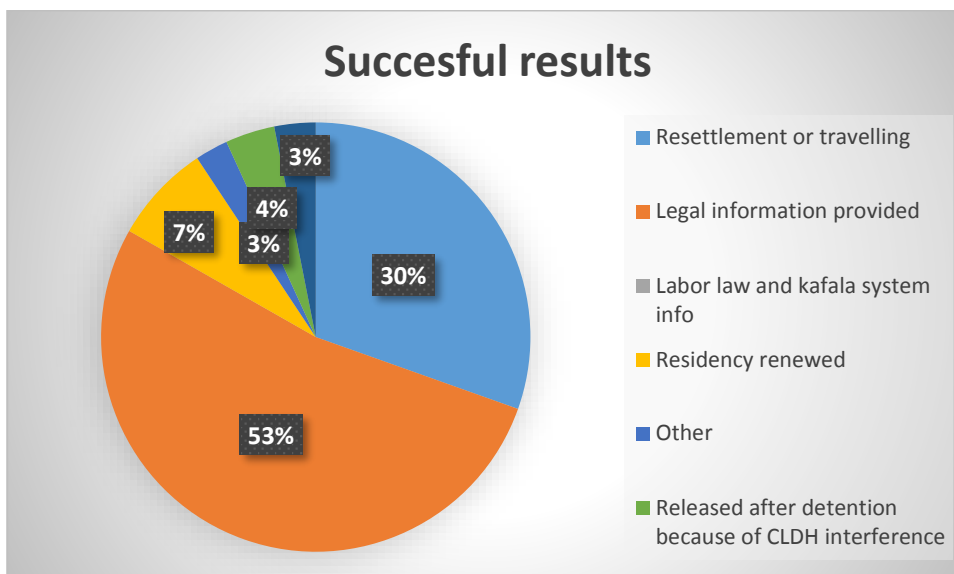


Figure 8. Successful Results of CLDH Legal Counselling

Through its provision of legal counseling, CLDH concretely improves the lives of the beneficiaries: offering accurate information about Lebanese laws and regulations prevents the exploitation, trafficking and possible abuse of the vulnerable conditions of the beneficiaries by others; the assistance through the processes of resettlement and repatriation gives the beneficiaries the possibility to start their lives in better conditions.

Political achievements: National Human Rights Institute (NHRI)

In October 2016, the Lebanese government approved the establishment of the National Human Rights Institute,⁷⁶ that will monitor the human rights situation in Lebanon, receive complaints of violations, and issue periodic reports and recommendations. CLDH has played a key role in the definition of the law that determines the structure, regulations and mandate of this institute. Funded and supported by the Government of Lebanon, the impartial experts who will work in the NHRI will have the authority to conduct regular unannounced visits to all places of detention, investigate the use of torture, and issue recommendations to improve the treatment of detainees. It thus represents a key tool for the improvement of the conditions of detention and trial in the country, as well as the first concrete sign of an active engagement of the Government of Lebanon against the practice of torture and in favor of the respect of human rights.

Recommendations

Even though the Bar Associations of Beirut and Tripoli are committed to the provision of legal aid in Lebanon, the current system of delivering legal aid does not result in the systematic provision of quality legal representation to the clients, which is why the role of CLDH and other NGOs is particularly important.

The system of provision can and must be improved in order to guarantee the right to access to legal aid to all the vulnerable inmates. The following recommendations aim to highlight the faults and changes that CLDH considers necessary to improve the system.

To all the institutions involved in the implementation of the law regulating access to legal aid

- Legal Aid system lacks a proper follow-up and monitoring system. Each legislative and executive body involved in the provision of legal aid should guarantee through efficient monitoring activities the implementation of their duty in respect of the Lebanese law.
- With this aim, statistics and reports concerning Legal aid in Lebanon should be made public on a regular basis (twice per year) by the different institutions and bodies involved in the provision of Legal Aid in the country.

To the Beirut and Tripoli Bar Associations

- Establish a proper system of data gathering and analysis, in order to publish a yearly report with statistics on legal aid cases. Establish a scale of fees payable to the legal aid appointed lawyers.
- Establish a program to monitor cases, supervise lawyers and mentor trainee lawyers who are appointed to represent legal aid clients.
- Efforts should be made to foster the involvement of experienced lawyers through appropriate recognition of their services.

⁷⁶<https://www.hrw.org/news/2016/10/28/lebanon-new-law-step-end-torture> (last accessed 08/12/16)

Report on CLDH project of Legal Aid to Vulnerable Individuals

- The Legal aid system relies too heavily on the appointment of trainee lawyers, who, by definition, do not have the experience required in certain cases, and in need of supervision and mentoring.

To the Lebanese Government and funding agencies

- The funding agencies should concentrate their efforts on improving the legal aid system in Lebanon in the following areas: human resources management within the Bar associations and lawyers' fees.
- The Lebanese Government should allocate sufficient budget for the provision of legal aid, based on the statistics and a scale of fees established by the Bar associations.

To the Lebanese judges

- They should not pursue the investigation of an accused that does not have an appointed lawyer to represent him/her.
- They should inform the accused of their right to access to legal aid also at the beginning of the investigation, so to prevent arbitrary detention during pre-trial detention as well as to allow the lawyers to properly assist the client.