



British Policing Support Team

Framework for Reducing Overcrowding in Lebanon: EIGHT CRITICAL PATHWAYS

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Introducing the Framework

RATIONALE

Overcrowding in detention centres in Lebanon is arguably the most pressing human rights issue in the country. Overcrowding affects all places of detention: police station detention cells, courtroom holding cells, and prisons. The occupancy rate in prisons is on average between 200% and 250% of capacity; in some police detention cells it has reached 1000%.¹

Overcrowding in Lebanon is driven by a number of factors.² **The primary driver of overcrowding is the disproportionate use of arrest and pre-trial detention**, leading to excessive demands being placed on the criminal justice system as a whole, from detention space to judges. Pre-trial detainees are estimated to account for 81% of the total detention population across Lebanon.³ This is due to an over-reliance on arrest on the basis of suspicion and prevention as well as the inability and unwillingness to employ alternatives to pre-trial detention.

A number of additional drivers of overcrowding have been identified: The underutilization of alternatives to imprisonment at the sentencing stage; the inability for detainees to reliably access legal counsel; inefficiencies in the criminal justice system coupled with a lack of modern systems for managing detainee records, leading to unorganized court processes and delays in court proceedings; ineffective or non-existent accountability mechanisms; unsatisfactory capabilities amongst the police and judiciary to properly manage detainees compliant with human-rights standards; and poor management, both in terms of capacity and quality, of current detention facilities.

¹ Figures provided by the Human Rights Department of the ISF.

² Identified in the report, 'the Causes of Overcrowding in ISF Detention Facilities,' by Max Murray.

³ Figure provided by the Head of the ISF Prison Department.

Overcrowding has a wide range of harmful effects. Foremost, **detainees' well-being is continuously compromised, while Lebanon remains in daily contravention of its international human rights obligations.** Inordinate demands are also placed on criminal justice actors themselves; the ISF, for example, has to dedicate a disproportionate amount of resources to the transportation of detainees, which has a deleterious effect on the organization's current attempts to introduce a more visible and proactive style of policing. The safety of both detainees and detention personnel is eventually put at risk by the potential for outright violence, exemplified by the 2011 Roumieh Prison riots.⁴

All stakeholders, including the Ministry of Interior, the Ministry of Justice, judges and prosecutors, civil society organizations, and the donor community are therefore in agreement that overcrowding requires immediate action in Lebanon. The ISF, as part of their recently launched Strategic Plan, specified the improvement of detention conditions in line with international standards as one of their stated objectives for the coming five years.

Yet previous attempts to address the issue have fallen short. Importantly, there has been a lack of joint action across the criminal justice system, while the underlying issues that drive overcrowding have often gone ignored. A feeling of 'learned helplessness', driven by the immensity of the issue and the lack of leadership to address it, pervades many of the institutions involved.

There is therefore **a pressing need for a comprehensive framework for addressing the root causes of overcrowding that is evidence-based and grounded in international best practice.**⁵ It is also important that, acknowledging the enormity of this issue, the various actors involved still recognize that there are practical steps that can be taken now to reduce overcrowding and alleviate its most harmful effects.

⁴ Reuters, 'Inmates riot at Lebanese prison, hold guards,' 5 April 2011: <https://www.reuters.com/article/us-lebanon-prison-riot/inmates-riot-at-lebanon-prison-hold-guards-idUSTRE7343KJ20110405>.

⁵ UNODC, 'Handbook on Strategies to Reduce Overcrowding in Prisons,' New York 2013, pp. 40-41.

OBJECTIVE

The purpose of this document is two-fold. First, **it outlines a holistic framework for addressing the drivers of overcrowding.** It enumerates a wide range of interventions that can be taken in the short, medium, and long term to do so. Its scope covers governmental actors, including the Internal Security Forces (ISF) under the Ministry of Interior (MoI), the Higher Judicial Council (HJC), the Ministry of Justice (MoJ), and the legislature.

Second, it also **identifies practical steps that can be taken by the ISF to address issues related to overcrowding.** Although much of the problem lies outside the ISF's remit, there are tangible improvements that can be made to improve the well-being of detainees in the short and medium term, and attention is drawn to these recommendations.

Overall, **the document seeks to foster a shared understanding between the ISF, the UK Embassy Lebanon, and the British Policing Support Team on the main means for addressing overcrowding in Lebanon.**

FRAMEWORK FOR REDUCING OVERCROWDING: EIGHT CRITICAL PATHWAYS

The framework identifies eight critical pathways for reducing overcrowding and alleviating its most harmful effects in Lebanon. They draw on the findings of the report, 'The Causes of Overcrowding in ISF Detention Facilities.' The report provides a comprehensive evidence-base for understanding the issues related to overcrowding, and the recommendations from the report form the basis of the framework.

These eight pathways align closely with international best practice, as specified in the authoritative UNODC 'Handbook on Strategies to Reduce Overcrowding in Prisons.'⁶

The framework posits a theory of change that, by taking the actions specified within each pathway, the drivers of overcrowding will be addressed and detention conditions improved. In doing so, the framework emphasises the need to work across sectors and ministries. Although action taken by one actor working independently may produce some short-term benefits, **there will be little in the way of sustainable improvements without addressing the system as a whole.**

The eight critical pathways directly address the drivers of overcrowding in Lebanon:

1. **Reduce the number of people arrested and held in pre-trial detention** by reducing the number of people arrested, addressing issues stemming from the first 96 hours of arrest, and avoiding unnecessary pre-trial detention at later stages of the investigation. As stated previously, pre-trial detention constitutes the key driver of overcrowding in Lebanon. Internationally, overuse of pre-trial detention has been consistently identified as a major contributor to overcrowding and a priority area to be addressed.⁷
2. **Utilize alternatives to imprisonment**, especially for low-risk crime and criminals, by making effective use of alternatives to imprisonment and raising awareness around alternatives and their benefits. Moving away from a highly punitive criminal justice system could significantly decrease overcrowding.
3. **Ensure detainee rights and access to legal counsel** by clarifying the basic rights assured to detainees and improving access to legal aid.

⁶ UNODC, 'Handbook on Strategies to Reduce Overcrowding in Prisons,' New York 2013.

⁷ The UNODC states, 'What is clear is that pre-trial detention is often used excessively, and that, if this were not to be the case, perhaps prison infrastructure would be adequate in terms of space, though not necessarily of conditions and services offered.' Ibid., p. 9.

4. **Enhance the efficiency of the criminal justice system**, focusing on ensuring timely court appearances and improving internal processes. Reducing the time that it takes for individuals to move through the criminal justice system can significantly reduce both the level of unnecessary pre-trial detention and overcrowding overall.
5. **Improve prisoner data management systems** across the entire criminal justice system, focusing on improved detention records, case file management systems, and crime statistics, facilitated by improved ICT capabilities.
6. **Strengthen accountability and transparency** through improved oversight and the enhancement or introduction of complaints mechanisms at various stages of the criminal justice system. Improved inspections and monitoring are essential to begin holding actors responsible within the system. These interventions must be coupled with efforts to build a more ethical, human rights based culture across the criminal justice system.
7. **Build the capacity and capabilities of the police, prosecutors, judges, and court staff.** Training and professional development opportunities will ensure that these actors have the competencies to meet the needs of detainees. Improving human resource management is also essential to ensure that staffing arrangements are such that Lebanese institutions are able to process detainees in compliance with international human rights standards.
8. **Manage prison capacity and quality.** Although this encompasses the refurbishment of detention facilities, it also includes the need to provide for the basic needs of detainees. Prison management in its entirety needs to be improved in order to manage current and future demands.

THE ISF: INTERVENTIONS TO REDUCE OVERCROWDING AND ALLEVIATE ITS MOST HARMFUL EFFECTS

The problem of overcrowding must be addressed across all aspects of the criminal justice system. The ISF, although responsible for managing prisons and detention facilities, does not have the power to address many of the factors that drive overcrowding in Lebanon. Findings from the report, ‘Causes of Overcrowding in ISF Detention Facilities’, correctly points out that the remedies to these issues are largely the responsibility of the courts, the Ministry of Justice, the Higher Judicial Council, and the various prosecutors and judges in Lebanon.

However, **there are tangible steps that can be taken by the ISF in the short, medium, and long term to start to address some of these issues.** Novel initiatives are required to attempt to reduce the number of individuals that the ISF is arresting on a daily basis, as this is the initial entry point into the criminal justice system. The ISF can also take some limited action to improve access to legal counsel and legal aid for detainees. The ISF should continue to improve its data management systems, with a particular focus on improved detention records, and should build on recent improvements in the monitoring and inspections capabilities of the Inspectorate General. Assigning a dedicated custody officer in all police detention centres would help to improve detainee conditions, facilitate their movement through the criminal justice system, and increase accountability. **These actions can be taken immediately or in the near future within the ISF itself.**

It is important to recognize that most of the interventions available to the ISF will primarily aim at improving the current conditions of detainees, and will have only a limited effect on the scale of overcrowding as a whole. Improving detention facilities, ensuring provision of proper sanitation, health, and dietary requirements, and continuing to prioritize the separation of different categories of detainees can improve drastically current conditions. Broader improvements will only be achieved through the eight pathways enumerated above.

STAKEHOLDERS

The framework identifies four key stakeholders that need to be primarily involved in addressing the drivers of overcrowding in Lebanon. The four stakeholders have a varying level of involvement in each of the eight pathways specified. All are crucial to the overall success of any holistic plan to address overcrowding.

The Internal Security Forces (ISF) is the responsibility of the Ministry of Interior and will require ministerial support for many of the interventions specified in the framework. The ISF are constrained by the fact that, in relation to the criminal justice system, they work at the behest of the judiciary. However, the organization remains a key actor in terms of the treatment of detainees, as they have primary responsibility for the management of detention facilities. Given that they act as the entry point to the criminal justice system via arrest, they also must play a crucial role in reducing the initial demand placed on detention facilities.

The Higher Judicial Council (HJC), as stated in their terms of reference, 'watches over the good functioning of the Judiciary, its dignity and independence, as well as the good performance of the works in courts and takes the necessary decisions in this concern.'⁸ It has ultimate responsibility for the performance of the various prosecutors and judges in the Lebanese system. Although recommendations ascribed to the HJC may apply to some of these actors specifically, the HJC is therefore viewed as the body responsible for ultimately taking forward efforts to alleviate overcrowding. Key action can be taken at this level to reduce pre-trial detention and ensure due process, make sure detainees are given a timely hearing, and start to take an active role in monitoring the criminal justice system to ensure human rights compliance

The Ministry of Justice (MoJ) is responsible for the organization of judicial matters, effective application of laws and regulations, and the operation of the myriad court systems in Lebanon. The MoJ must take concrete steps to

⁸ The Higher Judicial Council is referred to variously as the 'Supreme Council of Justice' and 'Supreme Judicial Council'. Ministry of Justice, 'Supreme Judicial Council,' <https://www.justice.gov.lb/index.php/court-details/35/1>.

introduce measures that will decrease the number of people formally entering the criminal justice system, and make drastic improvements to the processes and data management systems that underlie court operations.

The legislature needs to make critical amendments to the Code of Criminal Procedure and Penal Code to clarify detainee rights, expand the use of non-custodial measures before and after sentencing, and reduce sentences in relation to low-risk crime. These long-term interventions are necessary to address underlying deficiencies in the current legal instruments in Lebanon and curtail future increases in overcrowding in Lebanon.

KEY SUCCESS FACTORS

A number of factors critical to the success of efforts to reduce overcrowding have been identified through analysis of the current situation in Lebanon and reference to international best practice.

The UNODC clearly states that 'the first prerogative for achieving success in reducing overcrowding in prisons is the existence of political will.'⁹ Meaningful reform will require **sustained political will** from the Ministry of Interior, the Ministry of Justice, the Higher Judicial Council, and the Lebanese parliament. The commitment to address overcrowding as part of the ISF Strategic Plan 2018-2022 is a welcome development in this regard. However, similar commitments at the highest level of government are necessary in order to ensure sustained improvements.

As previously stated, success also relies upon **collaboration between the various ministries and government agencies involved**. This includes other ministries that are indirectly involved in the criminal justice system, such as the Ministry of Health and Ministry of Social Services.

The need for collaboration goes beyond state actors in Lebanon. **Donor agencies that are supporting reforms in the penal system must coordinate efforts** in order to exploit synergies, avoid duplication, and

⁹ UNODC, 'Handbook on Strategies to Reduce Overcrowding in Prisons,' p. 40.

ensure that all of the drivers of overcrowding are being addressed according to a logical and evidence-based theory of change.

The involvement of civil society organizations working in the human rights and criminal justice sector is also crucial to success. Although beyond the scope of the framework, civil society organizations in Lebanon hold a large amount of subject-matter expertise, in-depth understanding of current issues, and untapped networks that can all prove indispensable to addressing some of the root causes of overcrowding.

Broader public awareness and support will also be necessary to address a number of the underlying drivers of overcrowding. Highly punitive justice systems often stem from the need for political actors to look 'tough on crime', when such systems can, in reality, contribute to higher recidivism rates and decreased safety and security.¹⁰ It is therefore essential that a public conversation based on evidence is part of any reform efforts.

A major part of awareness raising must focus on **building understanding, both within the government and in broader society, around the fact that building more prisons will not, in and of itself, solve the issue of overcrowding in Lebanon**. As the UNODC states unequivocally, 'If the root causes of high imprisonment rates remain unchanged, new prisons will rapidly be filled, and the prison building programme will need to be expanded on a regular basis.'¹¹

Finally, all actors must **acknowledge that, even if the criminal justice system is successfully reformed, the core of the issue lies outside of this system**. Crime and criminality are, ultimately, socioeconomic issues, and therefore reducing crime (and, in turn, imprisonment) requires taking action against poverty and social marginalization.¹² Although clearly beyond the scope of this framework, it is critical to keep this in mind so as to set realistic expectations and consider complimentary interventions.

¹⁰ UNODC, 'Handbook on Strategies to Reduce Overcrowding in Prisons,' p. 41.

¹¹ UNODC, 'Handbook on Strategies to Reduce Overcrowding in Prisons,' p. 9.

¹² UNODC, 'Handbook on Strategies to Reduce Overcrowding in Prisons,' p. 39.

LOOKING AHEAD: JOINT WORKING GROUP ON REDUCING OVERCROWDING IN LEBANON

In order to effectively implement any aspect of this framework, consideration should be given to the formation of a '**joint working group on reducing overcrowding in Lebanon**', that would include ISF officers working in the areas of detention and human rights, judges and prosecutors, and representatives from the Ministry of Justice. Such a working group would also benefit from the membership of an external criminal justice expert who could facilitate the work of the group. Involving civil society actors in certain aspects of the working group's activity would also help to build public confidence in the process and provide additional subject-matter expertise. The working group could report directly to the Council of Ministers.

NAVIGATING THE FRAMEWORK

The document begins with an **Overview of the Framework for Reducing Overcrowding in Lebanon** (p.7). The overview outlines the 8 critical pathways to overcrowding reduction and the main objectives and stakeholders involved in each.

This is followed by a **detailed breakdown of each of the eight critical pathways** (pp.7-18). These specify the recommended actions within each category. Recommendations are distributed across stakeholders and categorized as either short-term (6-12 months), medium-term (1-3 years), or long-term (more than 3 years). Recommendations are drawn from the report, 'The Causes of Overcrowding in ISF Detention Facilities'; reference to recommendations are made in parentheses.¹³

Finally, a **summary of the interventions that the ISF can take to reduce overcrowding is included** (pp.19-21).¹⁴ This provides a consolidated overview of the actions that are ascribed to the ISF across the framework.

¹³ The report included a total of 126 recommendations, 118 of which are referenced within the Framework. The remaining 7 either fell outside the scope of the framework's objective or were adequately covered within other recommendations.

¹⁴ 42 of the 119 recommendations cited are directly applicable to the ISF.

Framework for Reducing Overcrowding in Lebanon: EIGHT CRITICAL PATHWAYS

1. REDUCE THE NUMBER OF PEOPLE ARRESTED AND HELD IN PRE-TRIAL DETENTION	2. UTILIZE ALTERNATIVES TO IMPRISONMENT	3. ENSURE DETAINEE RIGHTS AND ACCESS TO LEGAL COUNSEL	4. ENHANCE THE EFFICIENCY OF THE CRIMINAL JUSTICE SYSTEM
<p><i>Reduce the influx and unnecessary detention of individuals through:</i></p> <ul style="list-style-type: none"> ♦ Reducing arrest ♦ Addressing issues in the first 96 hours of detention ♦ Avoiding unnecessary pre-trial detention at later stages of the investigation 	<p><i>Reduce the degree to which imprisonment is used for low-risk crime through:</i></p> <ul style="list-style-type: none"> ♦ Making effective use of alternatives to imprisonment ♦ Raising awareness around alternatives to imprisonment and their benefits 	<p><i>Ensure the protection of detainee rights and access to legal counsel through:</i></p> <ul style="list-style-type: none"> ♦ Clarifying the basic rights assured to detainees under Article 47 of the Code of Criminal Procedure ♦ Improving access to legal aid 	<p><i>Reduce the time that it takes for cases to move through the criminal justice system through:</i></p> <ul style="list-style-type: none"> ♦ Facilitating timely court appearances ♦ Improving internal processes within the criminal justice system
ISF HJC MOJ LEG	HJC MOJ LEG	ISF HJC MOJ LEG	HJC MOJ LEG
5. IMPROVE PRISONER DATA MANAGEMENT SYSTEMS	6. STRENGTHEN ACCOUNTABILITY AND TRANSPARENCY	7. BUILD THE CAPACITY AND CAPABILITIES OF THE POLICE, PROSECUTORS, JUDGES, AND COURT STAFF	8. MANAGE PRISON CAPACITY AND QUALITY
<p><i>Improve data collection, storage, and access through:</i></p> <ul style="list-style-type: none"> ♦ Improving the detention record system ♦ Improving the case file management system ♦ Improving crime statistics ♦ Upgrading ICT capabilities 	<p><i>Establish conditions allowing for actors within the criminal justice system to be held accountable through:</i></p> <ul style="list-style-type: none"> ♦ Improving inspections, oversight, and monitoring ♦ Enhancing complaints mechanisms ♦ Focusing on building an ethical, rights-based culture across the criminal justice system 	<p><i>Ensure that actors across the criminal justice system have the skills and are given the conditions to meet the needs of detainees through:</i></p> <ul style="list-style-type: none"> ♦ Delivering training and professional development activities ♦ Improving human resource management 	<p><i>Improve the conditions that detainees are held in through:</i></p> <ul style="list-style-type: none"> ♦ Improving detention management ♦ Upgrading detention facilities ♦ Enabling access to basic services and supplies
ISF HJC MOJ	ISF HJC MOJ	ISF HJC MOJ	ISF MOJ

STAKEHOLDERS

Internal Security Forces (ISF)	Higher Judicial Council (HJC)	Ministry of Justice (MOJ)	Legislative (LEG)
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1. REDUCE THE NUMBER OF PEOPLE ARRESTED AND HELD IN PRE-TRIAL DETENTION

SHORT TERM

MEDIUM TERM

LONG TERM

ISF

Reduce arrest by:

- Clarifying the criteria for arrest to ensure all arrests are justified under the presumption that detention is the option of last resort (11)
- Issuing directives on the role and function of the Addictions Committee and referral arrangements for individuals suspected of drug use only (15)

Reduce arrest by:

- Reviewing the use of Article 217 of Law 17 on the use of preventive detention where individuals present a danger to themselves or others, ensuring that such arrest are subject to normal committal procedures (33)

Higher Judicial Council

Reduce arrest by:

- Issuing guidance that crimes related to LGBT and prostitution should not automatically be subject to detention (99)

Avoid unnecessary pre-trial detention by:

- Informing the suspect of his right to appeal the decision to detain under Article 107 (120)
- Clarifying the term 'urgently necessary' used in Article 108 for investigating misdemeanours (122)
- Advising suspects subject to detention under Article 108 that they are entitled to apply for bail (123)

Address issues in the first 96 hours of detention by ensuring that the following decisions are recorded in writing on the detainees' case file:

- Investigator requests to the Prosecutor to extend the period of detention beyond 48 hours (116)
- Response from the Prosecutor detailing the reasons for the decision to release or continue detention (117)
- At 96 hours, the ISF investigator provides findings and evidence and the Prosecutor responds with the decision to release or continue to hold pending referral to the Single Criminal Court Judge or Investigative Judge (118)

Avoid unnecessary pre-trial detention by:

- Carrying out research on the use of Article 108 to identify if discretion is used when time limits expire (121)

Ministry of Justice

Reduce arrest by:

- Considering alternative sanctions (such as police cautions) for minor offences to avoid costly and time consuming formal court proceedings (71)

Address issues in the first 96 hours of detention by:

- Introducing measures to ensure that the individual subject to pre-trial detention will be produced at court within 48 hours to ensure the detention is legal and fully justified (75)

Avoid unnecessary pre-trial detention by:

- Considering alternative non-custodial disposals for use by the courts to reduce the reliance on custody (70)

Avoid unnecessary pre-trial detention by:

- Considering what safeguards can be introduced to provide Judicial Supervision of offenders released under Article 111 (59)

Reduce arrest by:

- Amending Article 32 of the Code of Criminal Procedure to replace the term 'strong suspicions' with 'reliable evidence' or 'sufficient evidence' (106)

Avoid unnecessary pre-trial detention by amending/reviewing the Code of Criminal Procedure in the following areas:

- To allow for the introduction of electronic monitoring (66)
- To reflect that the Investigative Judge should consider the nature and gravity of the offence, the evidence, the sentence that may be given, and the personal and social circumstances of the individual, and consideration of whether there is a likelihood of the individual absconding when considering the use of pre-trial detention (119)
- To allow for wider discretion for Judges under Article 111, or alternatively to remove reference to judicial supervision and to introduce a probation supervision mechanism whereby offenders can be monitored in the community (124)
- To explore the use of Articles 113 and 114 to ensure discretion is used appropriately and detention is only used in exceptional cases as a sanction of last resort (125)



2. UTILIZE ALTERNATIVES TO IMPRISONMENT

SHORT TERM

MEDIUM TERM

LONG TERM

Higher Judicial Council

- Make effective use of alternatives to imprisonment by:*
- Reviewing the circumstances of migrant workers caught in the criminal justice system and provide guidelines on alternative actions and sanctions to avoid the unnecessary use of custody for those assessed to present a low or medium risk (100)

Ministry of Justice

Raise awareness around alternatives to imprisonment and their benefits by:

- Organising workshops and roundtables to inform Judges, Prosecutors and the wider judiciary on the negative impact of short sentences and the alternative options provided for in the Code of Criminal Procedure. To include International Standards based on the right to be treated as innocent until proven guilty and also reflecting that deprivation of liberty is a sanction of last resort (69)

Make effective use of alternatives to imprisonment by:

- Bringing forward legislative changes to decriminalise certain offences, such as homosexuality and prostitution (64)

Raise awareness around alternatives to imprisonment and their benefits by:

- Establishing a PR Department to focus the public debate on alternatives to prison custody and to shape positive images of the operation of the justice system, including the introduction of community punishments and sanctions and a presumption against use of short sentences of less than 6 months (72)

Legislative

- Make effective use of alternatives to imprisonment by:*
- Amending the Lebanese Criminal Code to introduce community sanctions and punishments and probation as a stand-alone disposal for the court as an alternative to the sanction of custody
 - Amending the Criminal Code and the Code of Criminal Procedure to include alternatives to custody including the option to sentence suspects to community sanctions and punishments (126)

3. ENSURE DETAINEE RIGHTS AND ACCESS TO LEGAL COUNSEL

SHORT TERM

MEDIUM TERM

LONG TERM

ISF

Clarify detainee rights under Article 47 of the Code of Criminal Procedure by:

- Providing clear instructions on the implementation of Article 47, including reading suspects' rights, and recording suspects' response when detained by ISF, including when arrested on the street. Small credit size aide memoires can be provided to remind staff of the rights, and a copy can be handed to the suspect (17)
- Displaying Article 47 rights in each detention cell, with a copy of the rights available to hand to each detainee on arrival at the police station (32)

Improving access to legal aid by:

- Issuing a directive that investigators must inform suspects about the availability of legal aid and providing the means for the suspect to contact the Beirut or Tripoli Bar Associations currently responsible for administering legal aid. To record in the case file that the suspect has been informed and provided with the means to contact legal aid (61)

Uphold detainee rights under Article 47 of the Code of Criminal Procedure by:

- Ensuring detainees are provided with the right to remain silent at the time when other rights are being considered (18)

Higher Judicial Council

Improving access to legal aid by:

- Arguing for ISF to advise detainees of their right to legal representation and for those who can't afford a lawyer to have one appointed under Legal Aid in compliance with article 14(3)(d) of the ICCPR, and that their right to Legal Aid be included as part of the rights explained following arrest (95)

Uphold detainee rights under Article 47 of the Code of Criminal Procedure by:

- Providing clarification on when a lawyer can be contacted, including under the legal aid arrangements, and issuing a directive to ensure that detainees are made aware of their right to legal representation and the availability of legal aid. Similarly, the legal representative should be present when the investigator speaks to the Prosecutor to brief on the case progress and investigation outcomes (16)
- Arguing the case that suspects at the initial ISF investigation have the right to have a lawyer present (105)

Improving access to legal aid by:

- Reviewing the availability of Legal Aid to those detainees who cannot afford a legal representative, to ensure that detainees are made aware of their right to a lawyer, have access to legal aid, and are given advance notice of court appearances to ensure detainees do not have to have a lawyer appointed on the day (94)
- Arguing for Legal Aid to be administered by the Ministry of Justice (96)

*Improving access to legal aid by:
Making legal aid the responsibility of the
Ministry of Justice (74)*

Clarify detainee rights under Article 47 of the Code of Criminal Procedure by reforming Article 47 and related articles to account for the following:

- Adding the right to legal aid and the right to apply for and make contact with legal aid (62)
- Clarifying that the rights of individuals are read out at the point of arrest (107)
- Clarifying that suspects have the right to contact a family member and a legal representative (108)
- Granting suspects the right to meet with a legal representative before ISF commencement of the investigative interview (109)
- Permitting the legal representative to be present during the ISF interview (110)
- Permitting the legal representative to be present while the investigators speak with the prosecutor (111)
- Including the right to remain silent in Article 47 (112)



4. ENHANCE THE EFFICIENCY OF THE CRIMINAL JUSTICE PROCESS

SHORT TERM

MEDIUM TERM

LONG TERM

Higher Judicial Council

Facilitate timely court appearances by:

- Rostering Judges to attend the new courtroom at Roumieh Prison to hear cases, not only for terrorist suspects but for other offenders as well (90)

Improve internal processes by:

- Agreeing formal MOUs between Judges/Prosecutors and the ISF, to facilitate effective communication on detainees in custody in police cells specifically to address progressing cases involving over-holding and arbitrary detention (91)

Facilitate timely court appearances by:

- Considering fast-track arrangements to accelerate the hearing of cases where the evidence is not in dispute to remove those suspects/offenders out of detention cells and the courts system (89)

Improve internal processes by:

- Ensuring that procedures are in place to facilitate the merging of sentences to avoid time wasting by lawyers (98)
- Reviewing the existing work processes and practices to identify if new arrangements can be introduced to better progress cases, including for the Prosecutors to visit places of detention to deal directly with detainees, particularly those held for relatively minor offences (102)

Ministry of Justice

Facilitate timely court appearances by:

- Putting in place monitoring arrangements to identify the reasons for adjournments to highlight inefficiencies and ineffective procedures (49)
- Establishing procedures to ensure that all detainees will have their case presented before a Judge within a reasonable period to avoid cases being lost or not heard. For example, at least every alternative month (60)

Improve internal processes by:

- Putting in place procedures to notify families and lawyers when clients are transferred between locations (51)
- Allocating office accommodation for judges suitable for their role, and not using offices for the dual purpose of Single Criminal Judges and Investigative Judges carrying out investigations (65)

Improve internal processes by:

- Overseeing a business process re-engineering and an organisational strategic review of how court business operates and identifying inefficiencies to ensure courts deliver an effective and efficient service (103)

Legislative

Facilitate timely court appearances by:

- Taking forward amendment to the law authorising the introduction of video-link options for court appearances (67)

5. IMPROVE PRISONER DATA MANAGEMENT SYSTEMS

SHORT TERM

MEDIUM TERM

LONG TERM

ISF

Improve the detention record system by:

- Introducing a master record or nominal roll which identifies those in detention cells, including the date of committal, court appearances, and ongoing detention (23)
- Having the Station Commander and Custody Officer review the records daily to ensure accuracy and timeliness of decisions (25)
- Implementing improved custody records to capture specific details in relation to time spent in detention cells. Monitoring arrangements should be put in place to alert on cases that exceed the approved detention periods at 48 and 96 hours (35)

Improve crime statistics and upgrade ICT capabilities by:

- Continuing to develop the collection and collation of statistics on crime trends, and the role and function of the Analysis Unit within the Inspectorate General should be further supported and enhanced (34)
- Continuing to roll out Fenix and providing the necessary technical knowledge and training required to operate the system (36)

Improve case file management systems by:

- Keeping records of the time taken to obtain the NASHRA criminal record information and investigating any excessive delays (12)
- Auditing case management records and case files to identify the quality of record keeping and decision-making to ensure that the investigators' notes and report to the Prosecutor are sufficient for the Prosecutor to take an informed decision. The Prosecutor's decision should also be recorded on the case file, and clearly identify the reason why further detention is authorised. Decisions to continue to detain someone in custody and specifically to extend the 48 hours detention or arrest after 96 hours should be requested in writing by fax (24)

Improve case file management systems by:

- Ensuring that photographs and fingerprints are taken for all detainees held at the police stations (14)

Ministry of Justice

Upgrade crime statistics and ICT capabilities by:

- Continuing to develop a databank of crime statistics to inform discussions on the nature of crime, crime trends, potential hotspots and detainee records (48)

Improve case file management systems by:

- Organising and structuring case files into quality documents, easily referenced, securely filed and efficiently retrievable (46)

Improve case file management systems by:

- introducing electronic case records to ensure accuracy and speed of access (47)
- Introducing legislation that authorises ISF to take biometric scans to better identify suspects (81)

Legislative

Improve the detention record system by:

- Updating the Code of Criminal Procedure to reflect changes in the committal and custody record system, ensuring that the time of arrival at the police station, and time of commencement of the investigation interview are recorded (115)

6. STRENGTHEN ACCOUNTABILITY AND TRANSPARENCY

SHORT TERM

MEDIUM TERM

LONG TERM

ISF

Improve inspections, oversight, and monitoring by:

- Enhancing the role of the Anti-Torture Committee of the ISF to monitor implementation of Law No 65 and introduce a tracking system to monitor the implementation of inspections recommendations (4)
- Supporting the Inspectorate General to consolidate and mainstream a rights-based approach to inspections, particularly with regards to conditions in detention cells and ensuring treatment of detainees meets basic standards of humanity, respect and decency (6)
- Developing a system for tracking, prioritising and following up on inspection report recommendations within the Inspectorate General (8)

Enhance complaints mechanisms by:

- Improving the ISF complaints system by increasing accountability, transparency and effectiveness of the current system and reviewing procedures to ensure they attract public confidence (3)

Improve inspections, oversight, and monitoring by:

- Taking measures within the Ministry of Interior to enhance the independence of the Inspectorate General, at a minimum ensuring that staff is allocated based on professional criteria or organising separate staffing arrangements for the unit (5)
- Agreeing a programme of independent inspection of police and court detention cells, through the ICRC under Decree 8800 dated 2002 which mandates ICRC to visit places of detention, to: visit any time, delegate medical staff to review medical records, and allow medical staff to assess the mental and physical state of detainees (9)
- Agreeing a programme of visits by the UN Committee Against Torture (CAT) to consider Article 3 rights for detainees under the Optional Protocol to the Convention Against Torture (OPCAT) signed on 5 September 2008 (10)
- Installing recording equipment and CCTV in all investigation interview rooms (44)

Higher Judicial Council

Improve inspections, oversight, and monitoring by:

- Mandating that Appeal Court Prosecutors, Financial Prosecutors, Investigating Judges, and Single Criminal Court Judges should visit places of detention at least once per month in accordance with Article 402 of the Criminal Code and in line with Decree 14310 of 12 February 1949 (82)
- Ensuring that the Higher Judicial Council routinely receives monitoring reports completed by the Inspector General (MoI) and Judicial Inspections on compliance with International Standards (87)

Improve inspections, oversight, and monitoring by:

- Requiring as a minimum that ISF investigation interviews are taped and/or captured on CCTV (104)

Enhance complaints mechanisms by:

- Introducing an anonymised complaints system managed by the National Preventive Mechanism to hear cases of grave miscarriages of justice (97)

Focus on building an ethical, rights-based culture by:

- Highlighting, through the Code of Ethics, that Judges only accept evidence in Court which meets the highest standards and is correctly and ethically obtained (86)
- Issuing clear guidelines and expanding the Code of Ethics to make it clear that suspects should only be in detention following due process and not as punishment (88)

Improve inspections, oversight and monitoring by:

- Aligning the judicial inspection procedures with international good practice and enhancing the independence and impartiality of inspections by relocating the Judicial Inspection as a function of MOJ (85)

Focus on building ethical, rights-based culture by:

- Making the Higher Judicial Council accountable for ensuring the Judiciary fully comply with International Conventions which Lebanon has ratified, including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, and enshrined in the Lebanese Constitution at Article 8 (83)

Focus on building an ethical, rights-based culture by:

- Ensuring that clear and unambiguous directives are issued requiring all those engaged in working with and in the Courts on behalf of the MOJ to commit to observance of International Human Rights Standards (56)

Improve inspections, oversight, and monitoring by:

- Assigning responsibility to Judicial Inspections for inspecting ISF detention facilities to ensure case files are completed accurately and to confirm that decisions to detain were reasonable and supported by the evidence (50)

Enhance complaints mechanisms by:

- Introducing a transparent and accessible complaints system for complainants unhappy with their treatment in the judicial system (76)

Focus on building an ethical, rights-based culture by:

- Drawing up guidelines, supported by the Council of Ministers, condemning corruption and bribery by Judges and Prosecutors and highlighting what action will be taken to investigate and punish those involved. All accusations of corruption should be investigated. Values and Code of Ethics within the Ministry of Justice should emphasise the unacceptability of such practices and the negative impact it has on public confidence in the criminal justice system (55)
- Introducing measures to prevent and monitor court clerks engaging in corrupt practices and receiving payments for copying case files, handing over a court decision, prioritising cases, delaying cases, holding someone in detention, and for transferring files between locations (57)
- Developing a mission statement and set of values for the Judiciary and updating the Code of Ethics as necessary to ensure all Judges and Prosecutors have agreed standards to adhere to (58)

7. BUILD THE CAPACITY AND CAPABILITIES OF THE POLICE, PROSECUTORS, JUDGES, AND COURT STAFF

SHORT TERM

MEDIUM TERM

ISF

Improve human resource management by:

- Selecting and training ISF NCO's as Custody Officers responsible for managing detainees held in police detention cells (22)
- Not subjecting staff trained on custody and detainee management to routine staff rotation, but rostering them to work in detention cells with detainees/prisoners (38)
- Appointing more women officers to the ISF and assigning them to work in places of detention and as investigators (40)
- Allocating police officers trained in community policing to police stations included in the community policing model, and not subjecting these personnel to rotation (43)

Develop professional capacity of the police by:

- Introducing a competency and skills framework for staff inspectors and management within Inspectorate General and also introduce recruitment arrangements to ensure selection of suitable candidates against the agreed competency and skills framework (7)
- Providing guidance on the management of vulnerable detainees, particularly for specific groups such as LGBTs, migrant workers, drug addicts, those with chronic illness and mental health problems, pregnancy, and refugees (21)
- Constructing a model of an interrogation room, including being fitted with recording equipment and CCTV, at the ISF Training Academy (37)
- Including training on managing drug addicts and the necessary support that should be provided to these detainees in training on detainee management (41)
- Reviewing the ISF investigation manual for compliance with international human rights standards around arrest, and including it in the training of Investigators at the Academy, and also for Prosecutors (42)

Higher Judicial Council

Improve human resource management by:

- Ensuring that Judges and Prosecutors attend duty in accordance with their agreed terms and conditions and that the leave allowance is appropriate for a public servant (92)
- Carrying out research, in consultation with the Ministry of Justice, on the caseload of Prosecutors and Judges and developing a staffing plan to ensure sufficient specialists are in post (101)

Ministry of Justice

Develop professional capacity of the judges by:

- Ensuring robust selection procedures are in place for selection of judges to identify those with the appropriate characteristics and mental competence. Training for newly appointed judges should be fully human rights compliant. Training should also equip Judges to take responsibility and provide the moral compass on behalf of society to ensure that those detained are treated humanely, with dignity, and within a rights-based judicial system (54)

Improve human resource management by:

- Reviewing the number of Prosecutors appointed at each court district to ensure they are sufficient to fulfil the full range of duties in compliance with the Code of Criminal Procedure (52)
- Reviewing the procedure for the recruitment and selection of Judges based on a minimum period of working in the criminal justice system as a legal representative (53)
- Reviewing the system for appointment of judges to ensure that appointments are based solely on merit, and subject to a significant period of experience as a lawyer in the criminal justice system (63)

8. MANAGE PRISON CAPACITY AND QUALITY

SHORT TERM

MEDIUM TERM

LONG TERM

ISF

Upgrade detention facilities by:

- Prioritising the improvement of basic detainee accommodation through the improvement of ventilation, opening windows, lighting, toilets, availability of hot water for showers, access to food and enhanced visiting facilities (2)
- Providing arrangements for the classification of categories of suspects – juveniles, women, men, sentenced, and unsentenced, taking account of individual detainee characteristics (20)

Enable access to basic services by:

- Reviewing visiting arrangements to provide reasonable visiting facilities with appropriate privacy where conversations cannot be overheard other than for normal monitoring (28)

Improve detention management by:

- Publishing internal directives identifying clear standards based on International best practice and UN minimum standards for treatment of detainees in police detention cells. The standards should address requirements for personal space, fresh air, light, sleeping arrangements, sanitary facilities, food, outdoor exercise, family contacts, healthcare provision and hygiene, including access to cleaning materials and laundry (1)
- Allocating a budget to all ISF police stations to cover costs of holding detainees, including providing basics such as hygiene products and food (26)

Enable access to basic services by:

- Ensuring initial screening procedures are completed to identify any immediate vulnerabilities, including access to medication, caring responsibilities are identified, or potential vulnerability from others or self (13)
- Agreeing and issuing internal directives on arrangements for providing meals to detainees without reliance on the good will of ISF staff or informal arrangements with relatives who are able to visit (27)
- Providing access to telephones for detainees to contact family/friends (29)
- Ensuring that all detention cells have basic hygiene products provided to include soap and shampoo so that basic cleanliness can be afforded (30)
- Making laundry facilities available for use of detainees as required (31)
- Developing guidance on the role of NGOs and other statutory bodies in managing the needs of detainees, and to work collaboratively with NGOs making contact and providing access to places of detention (39)

Ministry of Justice

Upgrade detention facilities by:

- Taking immediate steps to introduce the provision of external exercise yards for each of the court holding areas in Beirut, Saida, Baabda, and other court districts (45)

Improve detention management by:

- Transferring responsibility for the management of prisons from the Ministry of Interior to the Ministry of Justice (73)

INTERNAL SECURITY FORCES: INTERVENTIONS TO REDUCE OVERCROWDING AND ALLEVIATE ITS MOST HARMFUL EFFECTS

SHORT TERM

MEDIUM TERM

LONG TERM

1. ARREST & PRETRIAL DETENTION

Reduce arrest by:

- Clarifying the criteria for arrest to ensure all arrests are justified under the presumption that detention is the option of last resort (11)
- Issuing directives on the role and function of the Addictions Committee and referral arrangements for individuals suspected of drug use only (15)

Reduce arrest by:

- Reviewing the use of Article 217 of Law 17 on the use of preventive detention where individuals present a danger to themselves or others, ensuring that such arrest are subject to normal committal procedures (33)

3. DETAINEE RIGHTS & LEGAL COUNSEL

Clarify detainee rights under Article 47 of the Code of Criminal Procedure by:

- Providing clear instructions on the implementation of Article 47, including reading suspects' rights, and recording suspects' response when detained by ISF, including when arrested on the street. Small credit size aide memoires can be provided to remind staff of the rights, and a copy can be handed to the suspect (17)
- Displaying Article 47 rights in each detention cell, with a copy of the rights available to hand to each detainee on arrival at the police station (32)

Improving access to legal aid by:

- Issuing a directive that investigators must inform suspects about the availability of legal aid and providing the means for the suspect to contact the Beirut or Tripoli Bar Associations currently responsible for administering legal aid. To record in the case file that the suspect has been informed and provided with the means to contact legal aid (61)

Uphold detainee rights under Article 47 of the Code of Criminal Procedure by:

- Ensuring detainees are provided with the right to remain silent at the time when other rights are being considered (18)

Improve the detention record system by:

- Introducing a master record or nominal roll which identifies those in detention cells, including the date of committal, court appearances, and ongoing detention (23)
- Having the Station Commander and Custody Officer review the records daily to ensure accuracy and timeliness of decisions (25)
- Implementing improved custody records to capture specific details in relation to time spent in detention cells. Monitoring arrangements should be put in place to alert on cases that exceed the approved detention periods at 48 and 96 hours (35)

Improve crime statistics and upgrade ICT capabilities by:

- Continuing to develop the collection and collation of statistics on crime trends, and the role and function of the Analysis Unit within the Inspectorate General should be further supported and enhanced (34)
- Continuing to roll out Fenix and providing the necessary technical knowledge and training required to operate the system (36)

Improve case file management systems by:

- Keeping records of the time taken to obtain the NASHRA criminal record information and investigating any excessive delays (12)
- Auditing case management records and case files to identify the quality of record keeping and decision-making to ensure that the investigators' notes and report to the Prosecutor are sufficient for the Prosecutor to take an informed decision. The Prosecutor's decision should also be recorded on the case file, and clearly identify the reason why further detention is authorised. Decisions to continue to detain someone in custody and specifically to extend the 48 hours detention or arrest after 96 hours should be requested in writing by fax (24)

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