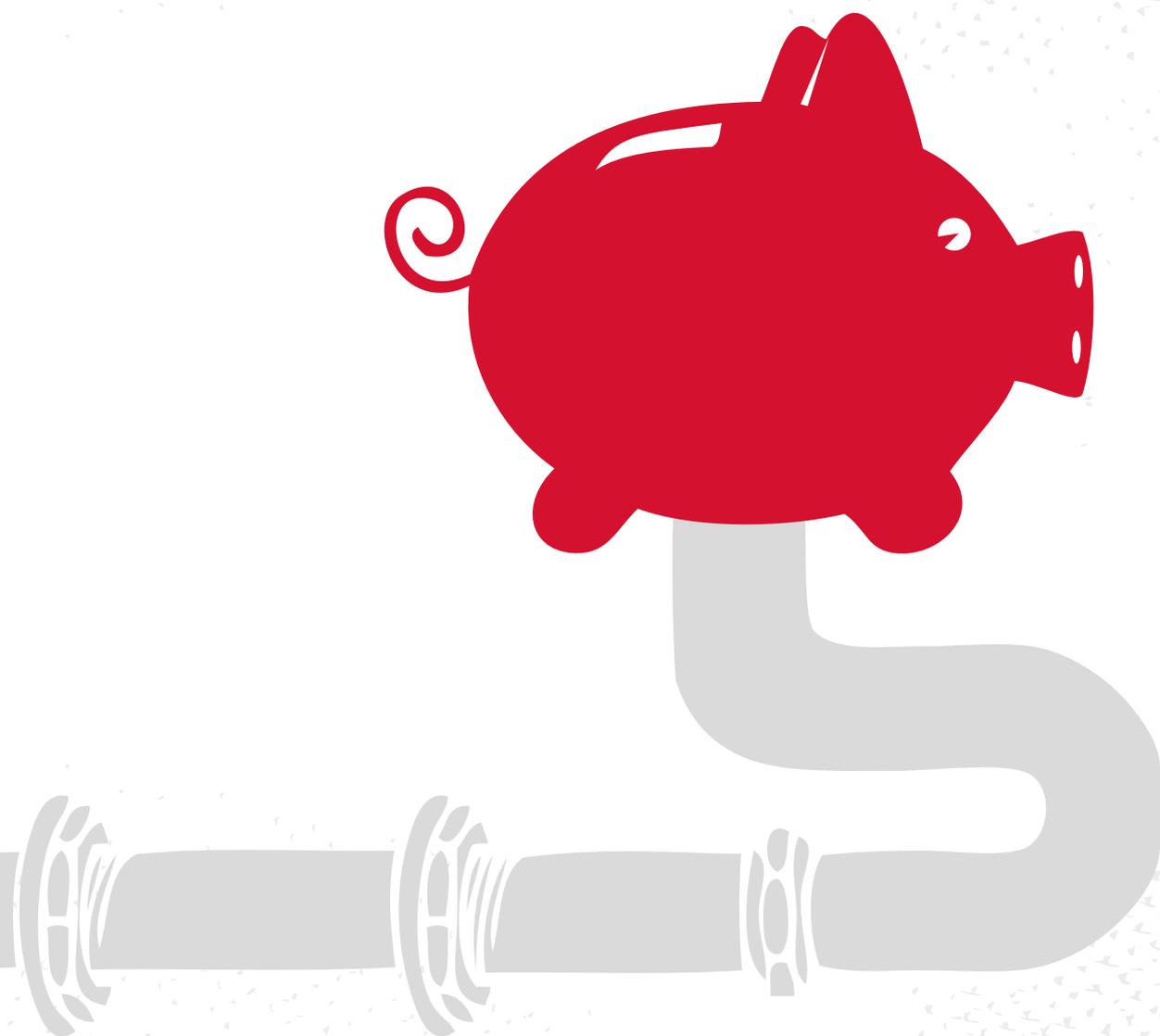


# CORRUPTION IN PUBLIC INSTITUTIONS

**Towards the Right for Access to Information**



**POLICY BRIEF**



# EXECUTIVE SUMMARY

Lebanon has one of the most corrupt governance systems in the world. Both a result and a cause of the persistence of its sectarian system, corruption creates endemic clientelism that negatively influences citizen participation, socio-economic development, and government performance.

Although Parliament ratified the United Nations Convention Against Corruption (UNCAC) in 2008, **Lebanon continues to be plagued by rampant corruption due to structural, institutional, social and economic factors.** Lack of access to information, inability to monitor public spending, and weak accountability mechanisms are among the many reasons contributing to corruption. In addition, the sectarian system of power-sharing does not allow for horizontal accountability among the different branches of government.

The political and economic costs of corruption threaten the country's stability, growth, and democratic system. In the last two decades, civil society organizations (CSOs) have tackled this issue but have not succeeded in persuading decision-makers of real changes and required reforms. Though anti-corruption laws are being negotiated in parliamentary committees, there is the risk that they may not pass or that they may be amended to such a degree as to become

irrelevant. Another challenge facing anti-corruption initiatives is the need for efficient accountability mechanisms and institutions as well as an independent judiciary in order to create an overall enabling environment.

**The proposed policy aims at enhancing government transparency by ensuring citizens' access to information, particularly about the legislative process and public finances, thereby allowing greater civic participation, government transparency and accountability.**

This policy proposal aspires to fight corruption by:

- **Improving access to information laws;**
- **Improving transparency of the legislative process;**
- **Enhancing public budget transparency.**

Adopting and enforcing the implementation of these policies requires a long-term process that starts by documenting and researching relevant tools and decisions, piloting action with a maximum number of citizens, and supporting government in implementing reforms.

# FRAMING THE ISSUE

## The Problem

The Lebanese Parliament ratified the United Nations Convention Against Corruption (UNCAC) in 2008. The Convention proposes measures to prevent and criminalize corruption, promote international cooperation, and facilitate asset recovery. Yet Lebanon continues to suffer from severe corruption due to structural, institutional, social and economic factors. Lack of access to information, inability to monitor public spending, and weak accountability mechanisms are among the many reasons contributing to high rates of corruption.

Corruption in Lebanon exists in all its forms, including bribery, nepotism, favoritism, patronage, embezzlement, and vote-buying. The sectarian system is an enabler for many corrupt practices that result in economic monopolies, unfair distribution of public assets, and low levels of citizen participation. One of the main means to fight corruption is by ensuring citizens' access to information and providing them with the mechanisms to hold government accountable.

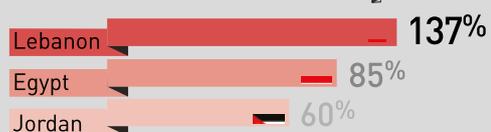
### DID YOU KNOW ?

Lebanon's rank among 183 countries on CPI (Corruption Perception Index)

**134**   **highly corrupt !**  
#Transparency International 2011

Lebanon's public debt is one of the highest in the world

**61 billion\$** 



#World Factbook, 2011

Each Lebanese is indebted the moment he/she is born 

**≈ 15,000** 

#World Factbook, 2011

Due to corruption, Lebanon wastes over

**\$1 billion** \* year 

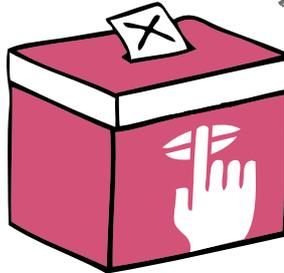
#Information International, 2003

Lebanon is ranked in terms of ease of doing business

**# 104 / 183** countries 

**# 11 / 19** arab countries 

#The World Bank, 2011



Lebanese Citizens cannot access the voting records of committee meetings of MPs.

(Lebanese Parliamentary bylaws)

## Situation Brief

The following challenges hinder efforts to combat corruption and enhance government performance:

- 1.** Confessional power-sharing leads to the distribution of public assets and resources based on sectarian interests.
- 2.** Lack of awareness of the causes and consequences of corruption.
- 3.** Weak and ineffective institutions and mechanisms to fight corruption.
- 4.** Weak legal framework and lack of proper judicial controls.
- 5.** Endemic nature of corruption, which affects all levels of government.
- 6.** Inability of citizens and voters to hold public officials accountable.
- 7.** Invisible line between politics and large private corporations.

## The Urgency

Lebanon faces high political and economic risks and citizens cannot afford an increase in public debt and continuing deterioration of public services. Fighting corruption is becoming a priority for Lebanon's political, economic, and democratic development. Concrete measures to fight corruption and improve government performance are needed to restore trust in state institutions and respond to growing economic crises and social challenges.

With the intensification of international pressure and buildup of citizens' dissatisfaction, it is becoming imperative to ensure transparency, accountability and good governance standards within the legislative, executive, and judicial branches.

# LOOKING AT EXISTING POLICIES, LAWS AND PRACTICES

The following policies, laws and practices reflect the choices made by the Lebanese government to improve the quality of public services. However, throughout our research, we could not identify any clear policy to fight corruption. In assessing existing policies, we used three key indicators that are essential for any policy option aimed at fighting corruption:

1. guarantee transparency .....
2. provide accountability mechanisms .....
3. allow citizen participation .....

Policy	<b>Assessment</b>
Law	
Practice	
<b>Judicial System &amp; Legal Framework</b>	<ul style="list-style-type: none"> <li>→ Judicial proceedings are slow and do not conform to procedural transparency standards.</li> <li>→ The judiciary lacks autonomy and is manipulated by political players.</li> <li>→ The judicial system, like other public institutions, is affected by corruption. As a result, courts do not respond to allegations of corruption.</li> </ul>
<b>Legislative Performance</b>	<ul style="list-style-type: none"> <li>→ The internal by-laws of the legislature keep parliamentary committee proceedings secret and do not require publishing MPs' voting records.</li> <li>→ Due to the confessional system and electoral law, the legislative branch does not question nor hold the executive branch accountable.</li> <li>→ The legislative process is not transparent; law proposals and adopted laws are not easily accessible.</li> </ul>
<b>Public Budgeting</b>	<ul style="list-style-type: none"> <li>→ The state budget is neither performance- nor policy-based, but rather divided per ministry as a result of clientelism and partisan interests.</li> <li>→ The budget development process is inefficient and does not allow for citizen participation.</li> <li>→ There is no clear mechanism to monitor spending and access financial reports per ministry and public institution.</li> <li>→ For at least seven years, public budgets have either been delayed or not issued at all.</li> </ul>



Policy	<b>Assessment</b>
Law	
Practice	
<b>Electoral &amp; Campaign Finance</b>	<ul style="list-style-type: none"> <li>→ Vote-buying is a common practice during parliamentary elections and is impossible to monitor due to bank secrecy, among other reasons.</li> <li>→ Management of the elections falls under the purview of the Ministry of Interior and Municipalities and the executive branch, rather than an independent body, leading to political interference.</li> <li>→ Social and economic services are provided by sectarian political parties before and after elections based on partisan interests. The lack of clear campaign finance controls contributes to corrupt practices and lack of accountability.</li> </ul>
<b>Information &amp; Communication Technology (ICT) Strategy, Infrastructure &amp; Regulatory Framework</b>	<ul style="list-style-type: none"> <li>→ Public institutions are resistant to integrating ICT into their practices due to lack of political will, capacity, and resources.</li> <li>→ The technological infrastructure is weak, with slow internet speed and limited broadband access.</li> <li>→ Laws related to e-government have yet to be passed, and the ones that were adopted are not enforced.</li> <li>→ Lebanon does not have an access to information law and does not have systemized archiving and publishing mechanisms.</li> </ul>

# CONSIDERING POLICY OPTIONS

The following table describes policy options for fighting corruption based on thorough research and participatory consultations with stakeholders around the country. Each policy is based on different assumptions, has a specific objective and strategies, and presents different advantages and disadvantages.

<i>Policy options</i>	<i>Assumptions</i>	<i>Objectives</i>	<i>Strategies</i>
<b>1</b> Access to Information & Whistleblower protection	<ul style="list-style-type: none"> <li>→ Transparency in government decreases corruption as the performance of politicians becomes more exposed.</li> <li>→ Informed citizens are empowered to hold politicians accountable.</li> </ul>	<ul style="list-style-type: none"> <li>→ Provide access to all types of information pertaining to government performance and protect civil servants who expose acts of corruption.</li> </ul>	<ul style="list-style-type: none"> <li>→ Advocate for the adoption of a set of laws related to access to information and whistleblower protection, and monitor their implementation.</li> </ul>
<b>2</b> ICT Integration & E-Government	<ul style="list-style-type: none"> <li>→ Integrating ICT in government operations streamlines procedures and interactions between public servants and citizens.</li> <li>→ E-government allows easy access to information for citizens and contributes to national development indicators.</li> </ul>	<ul style="list-style-type: none"> <li>→ Simplify government procedures, make them accessible to citizens, and publish performance reports related to public services and policies.</li> </ul>	<ul style="list-style-type: none"> <li>→ Create a legislative framework for e-government and enforce its implementation, while improving broadband and telecom services.</li> </ul>
<b>3</b> Higher Commission to Fight Corruption	<ul style="list-style-type: none"> <li>→ A public body is needed to enact the UNCAC and develop a national strategy to fight corruption.</li> <li>→ A public body coordinates efforts to fight corruption and becomes a focal point for citizen complaints.</li> </ul>	<ul style="list-style-type: none"> <li>→ Create a public body of lawyers and experts focused on fighting corruption and coordinating implementation of a national strategy.</li> </ul>	<ul style="list-style-type: none"> <li>→ Lobby for the creation of the Higher Commission to Fight Corruption and ensure CSOs and non-governmental organizations (NGOs) are represented.</li> </ul>

“Corruption is the misuse of authority for personal or private benefit. It occurs when an incumbent of a public post or a person with authority exploits decisions or information for the advantages of his own tribe, group or relatives.”

Towards a National Anti-Corruption Strategy

Advantages	Disadvantages	Experts' Take	Policy options
<p>→ Proposed laws were developed according to international standards and advocated by a network of CSOs under previous initiatives, and are being discussed in parliamentary committees today.</p>	<p>→ These laws are subject to discussions within Parliament, and might be amended to such a degree as to lessen their impact on fighting corruption.</p>	<p><b>“Political and sectarian figures are afraid of scandals... If citizens had access to information, facts and reality, they would use them to fight corruption at the highest levels.”</b></p> <p><i>Dr. Randa Antoun, Associate Professor at the American University of Beirut</i></p>	<p>1 Access to Information &amp; Whistleblower protection</p>
<p>→ There is an ICT strategy and a coordination unit within the Prime Minister's office that has drafted laws related to e-government.</p>	<p>→ The e-government legislative framework is insufficient as it requires a long process of integration and coordination to ensure implementation and enforcement.</p>	<p><b>“E-governance and a proper ICT infrastructure will provide citizens with the means to claim their rights, and institutions with the needed efficiency to provide services.”</b></p> <p><i>Salam Yamout, Head of the ICT Coordination Unit, Office of the Prime Minister</i></p>	<p>2 ICT Integration &amp; E-Government</p>
<p>→ This issue is being discussed in parliamentary committees and is a requirement of the UNCAC that Lebanon has ratified.</p>	<p>→ Within a weak judicial framework, the appointment process for the Higher Commission to Fight Corruption might fall prey to clientelism and render it inactive.</p>	<p><b>“Simple anti-corruption measures by government and political parties can help citizens feel the difference and restore their trust in the state.”</b></p> <p><i>Dr. Khalil Gebara, President of the Lebanese Center for Good Governance</i></p>	<p>3 Higher Commission to Fight Corruption</p>

# RECOMMENDING POLICY

## Access to Information Legislation

This policy brief focuses on the first policy option highlighted above—access to information and whistleblower protection—as the most urgent and actionable by CSOs, NGOs, and community-based organizations (CBOs).

Citizen access to information is a requirement for any anti-corruption and accountability mechanisms. It is one of the main rights stipulated in Article 19 of the Universal Declaration of Human Rights and the UNCAC.

Citizens have the right to know about the performance of their government representatives, voting records within Parliament, and how their taxes are spent. Access to information would ensure greater government responsiveness to citizen concerns and accountability of elected officials.

The following pillars and arguments illustrate how access to information can contribute to fighting corruption and promoting government transparency and accountability:

### Pillar

**Promote access to information legislation** to enforce archiving, analyzing and publishing of all relevant data by public institutions, including laws on access to information, on whistleblower protection, and around illicit wealth. These laws go hand in hand to provide citizens with the needed information and authority to hold public officials, while preserving their right to do so and not be subjected to threats or harm. If passed, these laws would provide citizens with mechanisms for holding government accountable and exposing acts of corruption.

### Pillar

**Enhance transparency of the legislative process.** Parliament's by-laws should be reformed to open parliamentary committee meetings and document MPs' voting records and other affairs. Access to information allows meaningful citizen participation, representation, and ability to hold parliamentarians accountable by knowing about their debates, stances, and votes on issues, in addition to being able to monitor the legislative process.

“ Simple anti-corruption measures by government and political parties can help citizens feel the difference and restore their trust in the state. ”

*Dr. Khalil Gebara,  
President of the Lebanese  
Center for Good Governance*

## Pillar

### **Ensure public budget transparency.**

The budget development and monitoring process should be reformed to make it more inclusive, participatory, and transparent.

Fighting corruption requires access to information on public financial management, starting from the national budget development process to spending mechanisms and financial reporting.

In the long run, an access to information policy should be complemented with efforts to:

- Promote ICT integration and E-government infrastructure,

- Create a Higher Commission to Fight Corruption, and Strengthen the judiciary and other accountability mechanisms, such as the Higher Council for the Prosecution of Presidents and Ministers, the Court of Audit, and the Civil Service Board.

- These institutions would strengthen the notion of accountability and support its implementation, therefore limiting corruption in public institutions.

# THE WAY FORWARD

## Pillar

### Promote Access to Information Legislation

Three interrelated law proposals on access to information, whistleblower protection, and illicit wealth are being discussed within parliamentary committees. The next step will be to put these reforms on the agenda of the Parliament's General Assembly for a vote. The current situation presents three key challenges:

- During discussions in parliamentary committees, it is important to maintain the integrity of the law proposals that were developed by civil society to prevent major changes that would dilute the impact of the proposed reforms.
- The timeframe between concluding parliamentary committee debates on the law proposals, placing them on the agenda of the General Assembly, and voting on them might be long, especially since there are 300 pieces of legislation on the agenda that have yet to be voted on.
- Once a law is passed, the executive decrees required to begin implementation of the new law must be issued, which might again take a long time.

Launched in 2008, the Lebanese Network for Access to Information, a CSO coalition that played a key role in introducing the laws mentioned above, was largely inactive from 2010 to 2012. Efforts to reactivate the network were recently launched, spearheaded by the Lebanese Transparency Association (LTA), and an LTA representative has been attending parliamentary committee meetings. To move the effort forward, civil society actors have one of two options:

- Join the Lebanese Network for Access to Information and actively lobby Parliament while monitoring parliamentary committee discussions on the proposed laws so that key articles are not changed and are put to a General Assembly vote.
- Launch a parallel campaign, using social media and creative actions, to expose MPs who attempt to alter the integrity of the proposed laws or who vote against those laws in the General Assembly.

## Past Proposals & Reform Efforts

- In 2012, *Beyond Reform and Development (BRD)* developed a paper with practical recommendations on ways to **enhance citizen-parliament relations** for improved legislative performance and citizen participation.
- The *Lebanese Network for Access to Information* proposed **access to information and whistleblower protection** laws that are currently being debated in Parliament.
- “*Towards a National Anti-Corruption Strategy*” developed by *LTA*, proposed a **Higher Commission to Fight Corruption**, currently being drafted into a law.
- In 2007, *Nahwa el Muwatiniya* proposed an amended **illicit wealth law** and obtained the endorsement of some MPs.
- *LTA* published the **Campaign Finance Monitoring Toolkit and Standards** in 2009.
- *The Lebanese Association for Democratic Elections (LADE)* has documented hundreds of cases of **vote-buying and campaign spending violations**.
- In 2005, the *Parliament* passed the **Ombudsman** Law. However, the Ombudsman institution has yet to be established.

# THE WAY FORWARD

## Pillar III

### Enhance Transparency of the Legislative Process

Parliament's current by-laws present barriers to access information related to the legislative process. This issue has not been a priority in the public discourse or the civil society agenda, though it is a pre-requisite for informed citizen engagement. Three main types of information are needed for citizens to be informed and should be included in the by-laws:

- Voting Records of MPs: Parliament established a **computerized voting records system** in 1996, which was refurbished in 2011. This system is not being used.
- Parliamentary Committees' **Agenda and Minutes of Meetings**: These are **confidential per Parliament's by-laws**, and deliberations within parliamentary committees are generally closed to civil society.
- Parliament Database of Law Proposals: **There are almost 300 law proposals currently in Parliament, which are inaccessible to citizens even though they are contained in a computerized database.**

## Pillar III

### Ensure Public Budget Transparency

Public budget and financial reports are posted on the Ministry of Finance website ([www.finance.gov.lb](http://www.finance.gov.lb)), but are not simplified in a way that makes them accessible to citizens. Key stakeholders, including CSOs and NGOs, lack the competencies to understand these reports. Moreover, some information, such as budget allocation per ministry, is inaccessible and does not allow issues-based budget monitoring. The Citizen Budget Project, an initiative launched by the Ministry of Finance in 2007, has developed analytical reports that provide a useful starting point for enhancing public budget transparency. To build on this effort, civil society stakeholders need to be equipped to access and analyze two critical components:

- Budget Development Process: **Understanding the budget development process** will enable stakeholders to recommend reforms and enhance their ability to participate in the process.
- Budget Data Analysis: **Simplifying budget data and linking it to specific issues related to citizen concerns** will allow citizens to be sufficiently informed to participate in public decision-making.

## Past Proposals & Reform Efforts

- **The Arab Network for Social Accountability (ANSA)** was created in 2010 and **includes members from the public, private, and NGO sectors.**
- The **ICT Unit** at the **Presidency of the Council of Ministers** is working on an **e-transaction law, improving broadband access,** and integrating **e-government.**
- The 2003 **National ICT Strategy** developed by the **Office of the Minister of State for Administrative Reform (OMSAR)** has instituted a number of **mechanisms for transparency** and **improved access to public services.**
- **MP Ghassan Moukhaiber** has proposed reforms of the Parliament's by-laws to **increase transparency of the legislative process.**
- **The Lebanese Parliamentary Monitor** launched by **Nahwa el Muwatiniya** in 2006 **documents the performance of MPs** from secondary sources.
- The **Lebanese Physically Handicapped Union (LPHU)** initiated the **Open Budget Project** in 2007 to promote **access to information related to accessibility for persons with disabilities.**
- The **Ministry of Finance** launched the **Citizen Budget Initiative** in 2007, with support from the **United Nations Development Program (UNDP),** aiming at **producing simplified, non-technical representation of the state budget.**
- **Lebanese Parliamentarians Against Corruption** is active on a number of **accountability law proposals and initiatives.**

# FUTURE ACTION

## SHORT TO MEDIUM TERM

		National Level	Local Level
 <b>Promote Access to Information Legislation</b>	<b>Expected Outcome</b>	The Parliament's General Assembly passes access to information legislation as advocated by civil society before the next parliamentary elections	
	<b>Strategy</b>	Build a coalition of NGOs, CSOs, and social media activists to monitor parliamentary committee discussions and General Assembly voting on the proposed laws	Engage NGOs, CBOs, and civic groups in monitoring information at the governorate, district, and municipal levels and in putting pressure on MPs in their districts to support access to information
 <b>Enhance Transparency of the Legislative Process</b>	<b>Expected Outcome</b>	The issue of legislative transparency is a citizen priority and part of the public discourse, specifically access to MPs' voting records, the meeting minutes of parliamentary committees, and the law proposals submitted to Parliament	
	<b>Strategy</b>	Increase the number of civil society and social media activists requesting permissions to attend parliamentary committee and General Assembly meetings, and publicize data on social media networks, thus challenging the parliamentary by-laws restrictions	Enable local mainstream and social media to monitor local MPs' voting records and stances within parliamentary committees, and publicize them to citizens locally
 <b>Ensure Public Budget Transparency</b>	<b>Expected Outcome</b>	Key stakeholders understand public budgets, and are able to monitor and influence the budget development process	
	<b>Strategy</b>	Develop and build the capacity of stakeholders to understand the budget development process and enable them to analyze components relevant to their work	Simplify public budget information and make it locally accessible through creative tools

# LONG TERM

National Level		Local Level			
The Cabinet issues decrees to implement laws passed by Parliament to increase citizen access to information				Expected Outcome	 Promote Access to Information Legislation
Focus the civil society coalition's campaign to putting pressure on the Cabinet to issue decrees and monitor government institutions' compliance with the laws passed by Parliament		Build the capacity of local stakeholders to put pressure on entities at the governorate, district, and municipal levels to publish information as per the passed laws.		Strategy	
Parliament reforms its by-laws by incorporating the recommendations suggested by civil society				Expected Outcome	 Enhance Transparency of the Legislative Process
Develop recommendations to amend Parliament's by-laws and launch a social media campaign to expose opposing MPs and pressure the legislature to adopt the recommendations		Build the capacity of local stakeholders to lobby their MPs to adopt reforms to Parliament's by-laws and provide them with access to their MPs' stances on the issue.		Strategy	
One ministry adopts a transparent budget development process and engages key stakeholders in that process				Expected Outcome	 Ensure Public Budget Transparency
Bring together stakeholders around an issue pertinent to one ministry, develop budget process reforms, and engage with the ministry to adopt the reforms		Bring together local stakeholders to work with municipalities, develop budget process reforms, and engage with those municipalities to adopt the reforms.		Strategy	

# ILLUSTRATIVE ACTIVITIES

In the last decade, several civil society-led initiatives have pushed for access to information and government transparency in Lebanon. Despite these efforts, the country continues to suffer from lack of transparency and rampant corruption. It is crucial for civil society to achieve incremental successes to rebuild trust that reform is possible while using more direct and creative tools to increase its reach and influence.

The following are suggestions for illustrative activities based on expert roundtables, interviews, and focus groups, which can be adopted by NGOs, CSOs, and CBOs to advance citizens' right to access information.

## Illustrative Activities at the National Level:

- Develop a strategy for direct actions to pressure MPs to pass access to information legislation.
- Raise the awareness of public servants on how access to information can benefit their institutional performance.
- Provide business associations with case studies on how their productivity can be enhanced with improved access to information.
- Engage the media at the national level in exposing acts of corruption.
- Create a social media platform for publicizing corruption-related complaints using a "name and shame" strategy.
- Build court cases against corrupt politicians and use them as precedents to lobby for access to information.
- Enhance the role of the Prosecutor General to respond to acts and complaints of corruption.

## Illustrative Activities at the Local Level:

- Create models of transparent budget development and monitoring with municipalities and demonstrate their implications on local development.
- Use available information on MP's stances to allow local constituents to hold them accountable.
- Develop a "Municipal Monitor" to increase access to information at the local level.
- Advocate for publishing all local affairs and decisions online.
- Integrate ICT mechanisms to provide citizens with access to information on municipal procedures and services.
- Disseminate legislative information at the local level and discuss them in townhall meetings.
- Engage with the media at the local level to expose acts of corruption.
- Engage with local civil servants who wish to expose cases of corruption.
- Create youth local councils to shadow municipalities.

# ENGAGING WITH DIFFERENT STAKEHOLDERS

The suggested policy option must be endorsed by key stakeholders and policy-makers to be implemented. The influence that the various stakeholders yield on the decision-making process will determine how they should be engaged and the messages they should receive. Below is a list of stakeholders to be considered.

- President of the Republic
- Cabinet of Ministers
- Ministry of Finance
- OMSAR
- Municipalities & Unions of Municipalities
- Political parties
- Lawyers & Judges
- Civil servants
- Judiciary
- Court of audit
- Civil Service Board
- Business associations
- Syndicates
- Bar Association
- Media Outlets
- Voters
- Academia & Research Institutes
- NGOs, CSOs & CBOs

Each of these entities requires a different strategy and approach to ally it with the suggested policy. The following table highlights the incentives for the key stakeholders to adopt or support the proposed policy. These incentives can form the basis for developing communication messages to persuade the stakeholders to take action.

Stakeholders	Incentives
<b>Parliamentary Blocks &amp; Committees</b>	 Rebuild trust and credibility with constituents and improve responsiveness to their needs
<b>Municipalities &amp; Unions of municipalities</b>	 Increase representation, responsiveness to citizens' needs and reach out to different groups
<b>Cabinet &amp; Ministries</b>	 Decrease corruption and enhance public institutions' performance, which will motivate citizens to comply with the law and pay their taxes
<b>Court of Audit &amp; Civil Service Board</b>	 Reclaim their role and authority while becoming more respected by citizens
<b>Business Associations &amp; Syndicates</b>	 Improve the business environment by overcoming administrative bureaucracy and corruption, in addition to being more able to study external risks
<b>NGOs, CSOs, &amp; CBOs</b>	 Become better informed to influence public policy and hold decision-makers accountable

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