



H.E. Judge Abu Sharar addresses participants at the 2008 Transparency Festival.

In his Speech on the Event of the 2008 Transparency Festival

Abu Sharar: Many Steps have been taken to strengthen the judiciary's transparency, most significantly in matters of new appointments, financial and administrative regulations and access to information guarantees

On the occasion of the 2008 Transparency Festival organized by the Coalition for Integrity and Accountability (Aman) to commemorate the International Anti-Corruption Day, H.E. Judge Essa Abu Sharar addressed participants, noting that many substantial steps have been taken by the High Judicial Council to strengthen transparency in the judiciary. These steps have been reflected in a transparent hiring process, the adoption of financial and administrative regulations, the establishment of a Media and Public Relations Department, the publication of high court judgments and finally, the activation of the Inspection Department, which has the authority to receive complaints from the public.

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The judiciary branch shall be independent, and shall be assumed by different types and level of courts. The structure, jurisdiction, and rulings of the courts shall be in accordance with the law. The rulings shall be announced and executed in the name of the Palestinian Arab People.

Article 97 of the Amended Basic Law of 2003

Qadaona Newsletter



Judges shall be independent, and shall not be subject to any authority other than the authority of law while exercising their duties. No other authority may interfere in the judiciary or in justice affairs.

Article 98 of the Amended Basic Law of 2003

February 2009

12 Pages

(Issue no. 1)

Chief Justice Abu Sharar: "Our Greatest Challenge is Case Backlog" Governorates' Courts Disposed of 75,845 Cases in 2008

| Court Name | New Filings at FI Courts | New Filings at Conciliation Courts | New Traffic Cases Filings | Disposal At FI Courts | Disposal At Conciliation Courts | Disposal of Traffic Cases | Total of New Filings | Total Disposed |
|-----------------|--------------------------|------------------------------------|---------------------------|-----------------------|---------------------------------|---------------------------|----------------------|----------------|
| Jericho Court | 141 | 676 | 3623 | 116 | 672 | 3962 | 4440 | 4750 |
| Hebron Court | 1153 | 1622 | 5815 | 1028 | 2217 | 5825 | 8590 | 9070 |
| Tolkarm Court | 378 | 2341 | 3431 | 299 | 1560 | 3639 | 6150 | 5498 |
| Nablus Court | 961 | 3851 | 7073 | 1037 | 3392 | 7304 | 11885 | 11733 |
| Bethlehem Court | 418 | 2007 | 4579 | 606 | 1659 | 4568 | 7004 | 6833 |
| Qalqelia Court | 219 | 1769 | 2197 | 200 | 1601 | 2258 | 4185 | 4059 |
| Jenin Court | 457 | 2907 | 3306 | 353 | 2557 | 3371 | 6670 | 6281 |
| Ramallah Court | 843 | 3769 | 13678 | 655 | 3018 | 13678 | 18290 | 17351 |
| Dura Court | - | 1354 | 2256 | - | 1322 | 2256 | 3610 | 3578 |
| Salfit Court | - | 969 | 1207 | - | 1125 | 1231 | 2176 | 2356 |
| Halhul Court | - | 936 | 1507 | - | 1087 | 1512 | 2443 | 2599 |
| Tobas Court | - | 1102 | 970 | - | 744 | 994 | 2072 | 1738 |
| Total | 4570 | 23303 | 49642 | 4294 | 20954 | 50598 | 77515 | 75846 |

Filed and disposed cases before the courts during 2008

Ramallah / for QADAONA
Both the First Instance and the Conciliation Courts continue to receive new cases filed by Palestinian citizens. Last year, these courts accepted a total of 77,515 cases and disposed 75,845 cases, achieving a disposal rate of 98% despite the increase in newly filed cases. The same courts received a total of 52,552 cases and disposed of 45,660 cases in 2007, according to that year's Annual Report.

H.E. Justice Essa Abu Sharar – Chief Justice of the High Court and President of

the High Judicial Council – told Qadaona, "What the courts achieved during 2008 in relation to the cases disposed is a clear evidence of the success of the High Judicial Council's policy aiming at controlling the increase in case backlog before the courts".

He added that, "The trust of Palestinian citizens in the judiciary had increased. This is evident through the rising number of newly filed cases during last year which reached 25,063. Simultaneously, the courts' efficiency in disposing of cases also increased in comparison with 2007. In 2008, the courts,

disposed of 30,186 cases – far more than in 2007 with a 66% increase in the disposal rate."

H. E. stressed that this year's greatest challenge facing the High Judicial Council is to find appropriate solutions for the case backlog accumulated during the Intifada years. The total number of pending cases before the courts reached 58,314 cases at the end of 2008. He also said that the High Judicial Council has formulated a plan for a solution, but some aspects of the plan would require legislative amendments.

Why Qadaona?

This is the launch issue of Qadaona magazine, the first publication produced by the Judicial Authority. Qadaona is one of many initiatives of the Public Affairs and Media Department established by the High Judicial Council in October 2008.

We intend to publish Qadaona every three months, and help establish it as a viable medium of communication between the judiciary, from judges to administrative staff, and the general public and other stakeholders in the implementation of the Rule of Law in the Palestinian National Authority. Qadaona will feature articles on the most recent developments in the Palestinian judiciary in addition to brief guides on the roles of various judicial institutions and related departments.

This magazine will also serve as a specialized forum for judges and administrative staff through which they can publish topical commentary and inform the public about their professional achievements.

On the occasion of the publication of this first issue, Qadaona's Editorial Board invites all Palestinian judges and judicial administrative staff to share, and shape, this experience by contributing articles on legal and judicial issues. The Editorial Board also urges court staff to freely express their views and suggestions to help develop the publication into a viable, effective medium of communication between the judiciary and the Palestinian public.

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The Notary Public Departments in Nablus and Ramallah Serve as Models for the Development of other Notary Public Departments in other Districts

Nablus-Qadaona: The Notary Public Departments are a key part of the judiciary because they provide critical services to the public. The services include certification of documents like bail bonds, power of attorney, contracts, and judicial notifications, and the department has the duty to ensure that the parties related to each document are present and that all legal procedures for such documents are followed by the relevant parties. Therefore, the workload in these departments has its own distinctive nature both in terms of quantity, which tends to be high, and quality. Because of this, the High Judicial Council (HJC) has focused on these departments and made extensive efforts to improve its conditions and the quality of the services they provide.

Developing and Enhancing the Infrastructure in some Notary Public Departments

The work on upgrading and developing the Notary Public Departments in both Ramallah and Nablus started in August 2007. The HJC worked according to a two-phase plan; the first was to design the departments to best fit the nature of their functions and services they provide. The second phase was to provide these two departments with the needed equipment, such as computers, photocopiers, printers, queuing systems, and air conditioning, in addition to custom-made furniture.

In Nablus and Ramallah courts, the Notary Public Departments were moved from the main court building which is crowded with litigants, witnesses and lawyers, to another location on the ground floors of the two courts. This enabled the individuals seeking the services of the Notary Public Department to access the department easily without having to enter the court's main building. Additionally, the space allocated for each department was increased, which meant that all staff members now have enough space to perform their duties comfortably and efficiently.

The counters and furniture were designed to help staff serve the public easily, and make the area comfortable for both the staff and the public. In addition, a special place to house the archive was designated in the two departments.

One of the attorneys who was visiting Nablus Notary Public Department commented on the new develop-



RAMALLAH NOTARY PUBLIC OFFICE

ments: "The electronic queuing system gives a very civilized, professional impression."

Increasing the Staff and Officers at the Notary Public Departments

Because many citizens require the services of the Notary Public Departments, the HJC increased the number of staff there. For example, the number of the Ramallah Notary Public Department staff was increased from two officers to four, and from one archive clerk and one data entry clerk to five staff members, three of whom were recruited through the USAID-funded Netham project.

This increase was based on a needs assessment done by the HJC, which evaluated staff efficiency and the workload at these departments.

One of the visiting attorneys commented on the new developments: "There is a clear professionalism in the way that the power of attorney documents are now organized and in the way the staff ensures that the needed identifying documents are present." Another attorney said: "All lawyers and citizens who come to the Notary Public Department in Nablus notice the difference. In the past, the shortage in staff hindered the work and we hope that other departments will undergo similar changes and improvements."

Computerizing and Archiving Documents

Computerizing aims to expedite the work process and make it more accurate and reliable. Around 70,000 documents in Ramallah's Notary Public Department and 42,000 documents in Nablus' Department have been entered into the Al Mizan automated case management software with the help of volunteers from the USAID-funded Netham Project.

As a result of this work, an automated archive was established, and includes a substantial part of each documents. The archive can be accessed easily, at any time.

In most Notary Public Departments, the archives lack adequate space and shelves to store the documents and facilitate timely access to them.

A lawyer commented on the difference between the two archiving systems: "The situation in the past was very bad and it was difficult for us to reach the archive when we needed to."

Now we "feel the difference!" In addition to this tangible progress at the Notary Departments, the improvement process enhanced the level of security of the archived documents and made it easy to access them on time so that the public can be served without delay.

In presence of HJC President and its Members

Fourteen Conciliatory Judges take the Oath



▲ CONCILIATION JUDGES, THE CHIEF JUSTICE AND HJC MEMBERS

▲ A JUDGE TAKES THE OATH BEFORE THE CHIEF JUSTICE



On 17 December 2008, fourteen male and female conciliatory judges took the oath before the Chief Justice and members of the HJC at the Council's headquarters in El-Bireh. The judges were nominated by the HJC and appointed by President Mahmoud Abbas.

Chief Justice Essa Abu Sharar wished the judges success and mentioned that they were subject to a three month training, followed by an additional training programme at Jordanian courts. The Chief Justice said that the new judges will be appointed as trainees and must later undergo a capacity test to check if they are capable of assuming their roles as conciliatory judges.

Abu Sharar urged the group, which includes two female judges, to keep in touch with each other and stressed the judiciary body's role in preparing and appointing capable new judges who would contribute to decreasing the case backlog. The Chief Justice also spoke of recent positive developments at court buildings in Tulkarem, Ramallah, Hebron and Ramallah. He also mentioned that plans are underway to build, with Canadian support, new courthouses in Ramallah, Tulkarem and Hebron. However Abu Sharar told the group that, so far, there was a problem to identify appropriate government-owned land for the buildings' construction.

Abu Sharar urged for a revision and modification of Palestinian laws and regulations in order to overcome obstacles and ensure a fair justice system.

Palestinian Courts: 2,524 Cases Pending For Over Ten Years; Extensive Steps Planned By the High Judicial Council To Reduce Caseload

Based on a request made by the High Judicial Council (HJC), a team from the USAID-funded Netham Project, along with a number of interns, inspected and reviewed files of cases registered at Ramallah Conciliation and First Instance courts before 1998. The team was able to identify which cases were registered prior to 31 December 1998, the total number of such cases, types of cases, and reasons for postponement of hearings. Results are presented below.

The following table indicates the total number of cases pending for over 10 years:

| Court Name | Criminal and legal Cases before the First Instance Court | Civil Cases before the First Instance and Conciliation Courts | Total |
|------------|--|---|-------|
| Ramallah | 169 | 108 | 277 |
| Nablus | 151 | 890 | 1041 |
| Jenin | - | 1131 | 1131 |
| Hebron | 56 | 19 | 75 |
| Total | 376 | 2148 | 2524 |

Ramallah First Instance Court:

The total number of pending cases registered before 1998 was 169: of that 82 were criminal and 87 were civil cases. The types of the criminal cases are as follows:

| Case Type | Total |
|--|-------|
| Theft | 7 |
| Embezzlement and Abuse of Office Powers | 4 |
| Attempted Murder | 3 |
| Sodomy | 3 |
| Using forged documents , stolen propertyetc | 65 |
| TOTAL | 82 |

The types of the civil cases are as follows:

| Case Type | Total |
|--------------------------------------|-------|
| Debts Collection | 37 |
| Ownership confirmation | 8 |
| Nullification of Vouchers | 5 |
| Nullification of a Power of Attorney | 5 |
| Remedy of Damages | 5 |
| Executing a Power of Attorney | 4 |
| Nullification of a Contract | 3 |
| Reimbursement for Physical Harm | 2 |
| Other types of cases | 18 |
| Total | 87 |

Ramallah Conciliation Court had 108 criminal and civil cases pending over the past ten years, 87 of which were civil and 21 criminal. The civil cases were grouped as follows: 13 eviction cases, four distribution of land, two cases of inheritance, and one case of confirmation of ownership.

The pending criminal cases before the Ramallah Conciliation Court that are over ten years old are traffic cases, theft, cases inflicting harm to an individual, fraud, defamation and slander.

The USAID-funded Netham project team also inspected a sample of old cases still pending before Ramallah Conciliation and First Instance Court, and reviewed the minutes of the hearings. This review revealed that some of these cases have had more than 50 hearing sessions and a few have had more than a hundred. By reviewing the hearing minutes and examining the reasons of adjournment, the team concluded the following were the major reasons for delay:

- The absence of one party or its representatives or one of the witnesses because they were not notified of the hearing date. For this reason, at least in part, some of the hearings were adjournments for more than 45 months.



RAMALLAH NOTARY PUBLIC ARCHIVES

- The absence of one party or its representatives or one of the witnesses, despite them being notified of the hearing date. For this reason, at least in part, some hearing adjournments reached more than 40 months.

- The absence of the judge or an incomplete panel of judges. For this reason, at least in part, some hearing adjournments reached more than 25 months.

The review also showed that in many of the cases reviewed, one of the litigants died during the proceedings and many of the witnesses could not be notified because they live outside the country.

The following are the numbers of the cases which have been pending in Nablus, Jenin and Hebron for the past ten years:

Nablus:

The USAID-funded Netham project team produced a list of all the pending cases registered before 1998 at Nablus's First Instance Court. The team used Al Mizan software to retrieve the list, which contained 74 civil cases and 77 criminal cases. At the Nablus Conciliation Court, the list of pending cases was as follows: 61 civil and 829 criminal cases. A quick review of the criminal cases indicated that most of these were traffic, slander, and defamation cases.

Jenin:

Because Jenin's First Instance Court was established after 1998, there were no pending cases with a registry date prior to 1998 at the court. (Such cases would have been registered before Nablus First Instance Court.) At the Jenin Conciliation Court, the team found that there were 32 pending civil cases and 1,099 pending criminal cases, most of which were for petty crimes such as theft, slander and defamation.

Hebron:

There were 36 civil and 20 criminal pending cases at Hebron's First Instance Court. At the Conciliation Court, 7 civil and 12 criminal cases were pending.

Recommendations:

Based on the above, and after an in-depth review of twenty old criminal and civil cases that are still pending before Ramallah's First Instance and Conciliation Court, the study team made the following recommendations:

1. Establish a list that includes the numbers of all the old cases (over ten years) that are still pending before the courts and to ask the Chief Judge of each court to provide the Chief Justice with a plan showing a time frame of how they would be settled.

The USAID-funded Netham project team developed the list for Ramallah First Instance and Conciliation Courts.

2. Provide a copy of the list to the Inspection Department and encourage the department to review some of the files listed in order to identify reasons behind the delay and submit recommendations on how to solve such problems.

3. Strengthen the judges' role in controlling the court and to empower them to not allow the parties to drag out the litigation process. To this end, request from judges to not agree on additional new witnesses and to compel the parties to limit the evidence they present.

4. There is an urgent need to consider issuing a general amnesty on certain cases and offences, which would lead to a reduction in pending cases, especially in Jenin and Nablus courts.

5. Explore the idea of holding continued hearings in order to dispose of all the pending cases which are more than ten years old.

6. Discuss ideas on how to empower police and public prosecution to help provide relevant witnesses when needed.

The High Judicial Council Enhances the Performance of the Civil Judgments Departments in Palestinian Courts

Civil Judgments Departments play an important role in the litigation process since they are entrusted with the critical job of enforcing judgments issued by civil, Shari'a (Islamic) and foreign courts. Additionally, these departments have direct contact with the public who refer back to it in order to assert their rights. This makes the Civil Judgments Department a vital unit that strengthens the role of the judiciary and its effectiveness and capabilities in upholding citizens' legal rights in accordance with the applied laws.

Because of the important role these departments play, they have been placed on top of the judiciary's reform and development priority list. This has led the High Judicial Council (HJC) to give special attention to the needs of the departments, especially in large courts such as those in Ramallah, Nablus, Hebron and Jenin.

Renovating the Civil Judgment Departments

In August 2008, the HJC started the process of designing and preparing a new location for the Ramallah Civil Judgment Department. The new site was designed to comfortably accommodate the Department's staff (the Civil Judgment Judge, the Civil Judgment Officer and assistants) as well as the public. In October 2008, the Department moved from the fifth to the ground floor of the Court building, which made it easier for the public to reach the Department. The new offices are equipped with air-conditioning and new furniture, and feature a roomy public waiting area and a queuing system.



RAMALLAH CIVIL JUDGMENT DEPARTMENT



Computerizing and Re-archiving the Files of the Civil Judgment Departments

The computerization of some of the daily tasks of the Civil Judgment Departments included two main components. First, the Departments received all the necessary equipment, tools and furniture needed, such as shelves, computers, scanners, and photocopiers. Then, with the assistance of volunteers from the USAID-funded Netham project, data was entered into Al Mizan Case Management data base. In Ramallah, 5,000 files were input and another 1,160 were entered in Nablus. The files were organized and archived according to serial numbers and an index system that facilitates information retrieval. In accordance with the law, Enforcement Judges were able to dismiss some of the cases, which aided the effort to computerize and re-archive.

Opinions Civil Judgment the Enforcement Departments

Before its recent relocation, the Enforcement Department in Ramallah tended to become crowded, which often led to tensions. The work area was cramped and the staff could not move freely while performing their duties. By contrast, the

new location provides both the public and the staff with plenty of space, which was immediately reflected in the level of service provided to – and satisfaction felt by – the public. The queuing system has made the entire process easier and more reliable to the public, and the atmosphere at the department has become distinctly more professional.

Attorney Ahamad Awadallah recently commented on the Ramallah Civil Judgment Department, saying: "I do feel better when coming to the Department because there is a queuing system and because there is enough space for the judge in the same area which helps a lot in processing the work." Attorney Ahmad Al Said had this to say about the work at Nablus Civil Judgment Department: "The professional staff working at the Department, in addition to the new improvements made such as the archiving and computerization and the fact that the Civil Judgment Judge sits at the Department, all this made the work easier and faster than before." Staff members who deal with the automated case management software Al Mizan have their own PCs to enter information or retrieve documents or reports such as notifications and imprisonment orders. Attorney Mofeed Khilailah praised the

work accomplished: "This is a blessed move by the Palestinian judiciary and we hope that such developments will be extended to include other departments in Palestinian courts. Today any citizen who needs a service from the Civil Judgment Department can walk in and feel confident and respected. This is very important and this is what the HJC wants to achieve."

According to statistical reports issued by the Civil Judgments Departments, there is increased public demand for the Departments' services, which is viewed as a positive sign for everyone especially for foreign investors who come here confident that there is an effective judiciary."

The High Judicial Council's Future Plans

While the HJC's acknowledges the importance of recent achievements, the council realizes that this is not the end of the development and reform process. This process is still in its early stages, and there are many other court departments that need to be developed such as the Clerks' Offices and the Notification Departments. Several attorneys pointed out to Qadaona magazine that increasing the workload of the Civil Judgment Departments will require more staff and more effort to speed up the notification process.

High Judicial Council Conducts a Baseline National Survey On Judicial System and Justice in Palestine



A WORKSHOP FOR BASELINE SURVEY FOR RESEARCHERS AND FIELD WORKERS.

The High Judicial Council conducted a baseline survey on the judiciary and justice in Palestine, with the aim of building capacity of the council, judges and court staff. The study included the following target groups: judges, court staff, lawyers, court users and the general public.

The survey is being conducted through the support of USAID's Netham Project and is being carried out by The Arab World Center for Research and Development (AWRAD). Results will inform about the public's perception towards the judiciary, among other information, and are expected to come out by the end of January 2009.

The courts' judgments are obligatory, any rejection or delay in implementation is a criminal act:

Article 82 of the Judicial Authority Law of 2002 states that:

"The implementation of the judicial judgments is mandatory. Any rejection or delay in implementing those judgments is a criminal act that leads to imprisonment and firing in case the accused is a Civil Servant. The defendants has the absolute right to go to the specialized court and the PA guarantees him full compensation."

Jericho's Court: Completion of the New Building Needed to Improve Service Delivery

Jericho/ Qadaona

Despite the attractive, sleek architecture and up-to-date services of Jericho's First Instance Court, the building is sometimes the focus of criticism from staff, lawyers and the public.

The criticism stems from the fact that the new first floor, which was inaugurated by H.E. Justice Essa Abu Sharar (the President of the High Judicial Council) and PA Prime Minister Salam Fayad now hosts only some of the Court's Departments.

Therefore, Court Departments and services are divided between two buildings: the recently built one and an older one, which has created fresh problems for staff and court users.

Recent Difficulties

One of the major recent difficulties noted by Qadaona is that the Notary Public Registration books are still located in the old building because of the lack of space in the new building. This means that the Notary Public Officer who works in the new building must put extra effort to ensure that the notarized documents are in accordance with the registration books in the old building, which requires extra time. The HJC did its best to reduce the impact of such problems on citizens, establishing a new cashier's office at the new building in addition to the old cashier's office, which still functions in the old building, but a broader solution is needed.

Another problem identified by Qadaona was the citizens' lack of knowledge about which services are provided in which building. Because both buildings provide key services, court clients often have to move between them to accomplish tasks.

According to Mr. Durid Arar, the Chief Clerk of the court. "This occurs every day and people do not know that the old building hosts the Conciliation Court and the Notary Public registration books and the Civil Judgment Department," Mr. Arar said. "The public also gets the First Instance Court and the Conciliation Court mixed up."

He also pointed out that the new building does not have a Public Service Office and if citizens need any particular service, they must go to the old building in order to prepare the documents required to obtain the service. He

also noted that there is a shortage of staff in the new building.

Enhancing the Court's Esteem

The new court building which hosts Jericho's First Instance Court has many features that enhance its esteem. The Court Hall in which the hearings are held is large and modern and each party has an adequate amount of space of their own. These improvements have led to a more effective and respected litigation process. The new building also has four detention cells designed in accordance with international standards. Each cell is equipped appropriately to guarantee the safety of the detained persons who are awaiting trial.

Attorney Mazen Damanhoury from Jericho said: "The new building has a positive impact on the court's esteem and status.

The citizen now feels that there is a court and a judiciary and there will be punishment if he or she commits a crime.

But the separation between the Conciliation Court and the First Instance Court means that the lawyers cannot cover their hearing schedules in both courts when the hearing times are close together.

This has led to increased requests by the attorneys to delay and adjourn hearings or to delegate other lawyers to attend the hearings on their behalf."

Damanhoury made the same recommendation that the Chief Clerk gave to Qadaona earlier: to complete the build-



A HEARING SESSION AT THE FIRST INSTANCE COURT

ing by adding a second floor and move the Conciliation Court there, as along with other departments that are still in the old building.

Attorney Damanhoury added: "Despite the problems, the Jericho Court has gained a lot of respect and attention from the public because of the coordination and cooperation between all sides responsible for enforcing the Court's judgments." The court's Chief Judge, Issam Ansari, said: "The security apparatuses in Jericho do cooperate with the court by bringing the witnesses to the court which is not happening in other governorates whereby security apparatuses do not cooperate with the courts, which obstructs judicial procedure."

Qadaona's correspondent who toured

both court buildings concluded that some steps must be made to facilitate the litigation process and help uphold citizens' rights. These steps include moving the Notary Public Registration books to the new building and building a new holding room in the old building so that defendants and the accused are not forced to wait together before hearings, as is now the case. Other steps are to create a public service office in the new building to educate the public on the functions of each of the two courts through information boards, and provide the court with additional staff. All these steps are necessary, but they do not rule out the importance of adding a second floor on the new building so that Jericho's court can efficiently serve the public, and become a model for broader access to justice.



IN THE JERICHO COURTHOUSE, A CITIZEN SEEKS DIRECTION TO AN OFFICE

In preparation for the opening Jenin Court Building is fully furnished



The HJC finished the furnishing of the Jenin Courthouse in preparation for its opening. The court's staff have already begun moving files from the old building into the new offices.

The infrastructure, furniture and equipment were supplied by the Government of Japan through UNDP. The USAID-funded Netham project provided the furniture for the Notary Public and the Civil Judgment Departments.

President of The High Judicial Council Attends 12th Meeting of Arab Courts and Constitutional Councils Union in San'a

H.E. Justice Essa Abu Sharar, the President of the High Court, President of the High Judicial Council participated in the 12th meeting of the Arab Courts and Constitutional Councils meeting held in San'a from 10 to 12 December 2008.

The meeting discussions revolved around several issues on the development and modernization of the constitutional courts in the Arab world. The Fifth Scientific Forum on the Constitutional Guarantees and Fair Trials was held at the same time. Participants discussed the agenda of the Sixth Forum which was held in Libya in January 2009. Justice Abu Sharar explained: "The meeting aimed at strengthening the cooperation between various Arab countries and to exchange expertise in the area of constitutional review so as to create harmony between the constitutional judiciary in the Arab world."

The meeting was also attended by the Venice Committee, which is concerned with constitutional and democracy issues in the European Union.

The Arab Constitutional Councils' Union had recently signed a memorandum of understanding with this committee in order to exchange expertise and information related to constitutional laws.

The High Court: Its Composition

The Palestinian High Court is composed of the Court of Cassation and the High Court of Justice. According to the Basic Law, the High Court shall temporarily assume all the powers and functions allocated to the Administrative Courts and the High Constitutional Court, unless such functions and powers fall under the jurisdiction of any other judicial body in accordance with applicable laws.

In addition, the High Court is the only body that has jurisdiction to adjudicate the judges' requests to nullify, compensate or halt the enforcement of any administrative decision related to them and it also adjudicate the disputes related to the judges' salaries, allowances and bonuses which they or their heirs are entitled to.

The High Court is composed of a Chief Justice, one or more deputies to the Chief Justice and other judges. The permanent location of the court shall be in Jerusalem but it shall convene temporarily in both Gaza and Ramallah. The High Court shall be considered in session if at least two thirds of its members are present.

The court shall convene based on a request by the Chief Justice or one of its departments in the following instances:

1. To reverse a legal principle the court had previously adopted or in order to eliminate any contradiction between previously adopted principles.

2. If the case before the court includes a new legal point, a complex issue or it has a special significance.

Essa Abdelkarim Ibrahim Abu-Sharar (President of the High Court)



Date of Birth: 1939
Academic qualification: BA Law
University: Damascus University - Syria
Promoted to a Judge at the High Court on 23 July 2002
Appointed in the Palestinian Judiciary Authority on 27 February 1996

A. The Cassation Court

The Cassation Court shall be considered in session when its President - the Chief Justice - and four of its judges are present.

In case the court's president is absent, the most senior among the deputies or the most senior judge at the court will assume the role of the court's president.

The Cassation Court is at the top of the court's organizational structure in Palestine.

It is considered to be a court of law and it functions as the main guarantor of litigants' rights.

All civil and criminal judgments issued by the Courts of Appeal can be appealed before the Cassation Court, provided that the appeal is based on a violation of the law by the Appeal Court or that the latter erred in applying or interpreting the law.

Also if the judgment is null and void or the procedures followed were null and void, which may have affected the court's judgment.

The court also has jurisdiction when the appealed verdict contradicts a previous final verdict issued on the same dispute and between the same litigants.

When reviewing the verdicts the Cassation Court approves those that conform with the law and revokes those that contradict it.

Mahmoud Mohammad Ham-mad Abu-Hammad



Date of Birth: 1945
Academic qualification: BA Law
University: Alexandria University - Arab Republic of Egypt
Appointed as a Judge at the High Court on 1 February 2006
Appointed in the Palestinian Judiciary Authority on 1 February 2006

Sami Taha Taher Sarsour



Date of Birth: 1947
Academic qualification: BA Law
University: Cairo University - Arab Republic of Egypt
Promoted to a Judge at the High Court on 23 July 2002
Appointed in the Palestinian Judiciary Authority on 1 April 1987

The court also has the power to settle jurisdiction disputes that occur between various courts. It also reviews all appeals related to personal issues for non-Muslim citizens.

In addition, the court might have jurisdiction over requests submitted before it, in accordance

Mohammad Shehadeh Naji Seder



Date of Birth: 1944
Academic qualification: BA Law
University: Ein Shams University- Cairo - Arab Republic of Egypt
Promoted to a Judge at the High Court on 21 May 2001
Appointed in the Palestinian Judiciary Authority on 1 May 1972

Asa'd Butros Sae'id Mubarak



Date of Birth: 1950
Academic qualification: BA Law
University: Beirut Arab University - Lebanon
Promoted to a Judge at the High Court on 20 October 2003
Appointed in the Palestinian Judiciary Authority on 1 November 1977

Imad Salim "Asa'd Abdullah" Sa'd.



Date of Birth: 1949
Academic qualification: BA Law
University: Beirut Arab University - Lebanon
Promoted to a Judge at the High Court on 11 July 2005
Appointed in the Palestinian Judiciary Authority on 1 July 1986

Iman Kathem Abdullah Naser-eden.



Date of Birth: 1957
Academic qualification: BA Law
University: Damascus University - Syria
Promoted to a Judge at the High Court on 11 July 2005
Appointed in the Palestinian Judiciary Authority on 7 September 1982

with any other applicable law.

It is worth mentioning that the Cassation Court holds no hearings when reviewing the appeals and thus it is not permissible to submit any new pleadings or new evidence before it, unless such pleadings and evidence are related to the public order.

Farid Issa Metre Musleh.



Date of Birth: 1940
Academic qualification: BA Law
University: Cairo University - Arab Republic of Egypt
Promoted to a Judge at the High Court on 11 July 2005
Appointed in the Palestinian Judiciary Authority on 1 April 1984

Hisham Rubin Issa Hetto



Date of Birth: 1954
Academic qualification: BA Law
University: Ein Shams University - Cairo - Arab Republic of Egypt
Promoted to a Judge at the High Court on 20 July 2007
Appointed in the Palestinian Judiciary Authority on 2 April 1986

Abdullah Musa Ghuzlan Ala'bbasi.



Date of Birth: 1953
Academic qualification: BA Law
Promoted to a Judge at the High Court on 11 July 2005
Appointed in the Palestinian Judiciary Authority on 1 April 1987

Rafiq Hesham Aderrahim Zohod



Date of Birth: 1955
Academic qualification: BA Law
University: Beirut Arab University - Lebanon
Promoted to a Judge at the High Court on 20 July 2007
Appointed in the Palestinian Judiciary Authority on 10 September 1986

If the court deems that a hearing must be held in order to review the appeal, then it shall appoint a hearing date and notify the parties to attend. It also has the power to exclude any issues submitted by the parties for the appeal and accept any others, provided it states the grounds for its decision.

The Cassation Court also has

Fathi Hammodi Hasan Abusoror



Date of Birth: 1952
Academic qualification: BA Law
University: Baghdad University - Iraq
Promoted to a Judge at the High Court on 15 July 2006
Appointed in the Palestinian Judiciary Authority on 2 December 1995

D.Authman Saleh Eltakroui Attamimi



Date of Birth: 1943
Academic qualification: PhD- Commercial Law
University: Ein Shams University - Cairo - Arab Republic of Egypt
Appointed in the Palestinian Judiciary Authority as a High Court Judge on 1 February 2006

Azmi Husain Ahmad Tanjeer.



Date of Birth: 1943
Academic qualification: BA Law
University: Damascus University - Syria
Promoted to a Judge at the High Court on 1 February 2006
Appointed in the Palestinian Judiciary Authority on 1 February 2006

Mohammad Sameh Salem Murtada Adwaik.



Date of Birth: 1953
Academic qualification: MS Law - University of Jordan - Jordan
BA Law - Beirut Arab University - Lebanon
Appointed in the Palestinian Judiciary Authority as a Judge at the High Court on 1 July 2008

the discretionary power to hear verbal pleadings from the parties' attorneys.

Litigants have to be represented by a practicing attorney before the Cassation Court. In such a case, only the reasons for appealing the judgment which are stated in the appeal list can be cited and no new reasons

and Jurisdiction

Sa'adeh Fawzi Khalil Addijani.



Date of Birth: 1940
Academic qualification: BA Law
University: Ein Shams University
– Cairo – Arab Republic of Egypt
Promoted to a Judge at the High Court on 10 February 1996
Appointed in the Palestinian Judiciary Authority on 3 October 1973

Amin Ayyad Mohammad Wafi.



Date of Birth: 1944
Academic qualification: BA Law
University: Ein Shams University
– Cairo – Arab Republic of Egypt
Promoted to a Judge at the High Court on 20 October 2003
Appointed in the Palestinian Judiciary Authority on 1 May 1977

Fawzi Hasan Abu Watfeh.



Date of Birth: 1941
Academic qualification: BA Law
Promoted to a Judge at the High Court on 14 May 2003
Appointed in the Palestinian Judiciary Authority on 8 December 1977

Ishaq Hasan Abdela'ziz Muhanna



Date of Birth: 1942
Academic qualification: BA Law (1966)
University: Alexandria University
– Arab Republic of Egypt
Promoted to a Judge at the High Court on 20 October 2003
Appointed in the Palestinian Judiciary Authority on 27 February 1996

can be heard.

The court has the power to allow the party's attorney to submit complementary memos during a stated time frame.

When revoking an appealed judgment because it did not conform with the law or because the Lower Court erred in application or

Walid Helmi Mohammad Elhayek.

Date of Birth: 1946
Academic qualification: BA Law (1969)
University: Cairo University
– Arab Republic of Egypt
Promoted to a Judge at the High Court on 11 July 2005
Appointed in the Palestinian Judiciary Authority on 28 March 1995

Mazen Helmi Salem Sesalem.



Date of Birth: 1942
Academic qualification: BA Law
University: Ein Shams University – Cairo
– Arab Republic of Egypt
Promoted to a Judge at the High Court on 20 October 2003
Appointed in the Palestinian Judiciary Authority on 28 March 1995

Yahia Mohammad Ali Hasan Abu Shahla.



Date of Birth: 1940
Academic qualification: BA Law
University: Damascus University – Syria (1962)
Promoted to a Judge at the High Court in 1998

Sulaiman Mohammad Addahdouh

Date of Birth: 1941
Academic qualification: BA Law (1965)
University: Damascus University – Syria (1962)
Promoted to a Judge at the High Court on 1 May 2006
Appointed in the Palestinian Judiciary Authority on 10 January 2004

interpretation, the Cassation Court shall return the judgment to the issuing court and the latter is enforced to implement the Cassation Court's new judgment.

In specific cases stated under Article 237 of the Civil and Commercial Law, the Cassation Court might rule on the case if the subject matter was ready to be adjudicated or the appeal was submitted to the court for the second time.

In any case the Cassation Court judgments are final and cannot be appealed in any way.

B. The High Court of Justice

The High Court of Justice shall be considered in session when its President – the Chief Justice – and two of its member judges are present. In case the court's president is absent, the most senior amongst the president's deputies, or the most senior judge in the court shall assume this role.

The High Judicial Council shall organize the High Court of Justice's work and functions and it shall establish different specialized departments (panels) within the court.

The High Court of Justice's Powers and Jurisdiction

1. Appeals related to elections.

2. Requests submitted by relevant individuals asking the court to nullify administrative decisions or lists issued by public law persons and bodies including professional unions, and such decisions that may affect individual rights and property.

3. Requests contesting the illegal imprisonment of individuals and requesting the court to issue orders to release these detainees.

4. Disputes related to the public office's civil servants in terms of appointment, promotion, transfer, retirement, dismissal and all other actions related to such office.

5. The rejection by any administrative body to take a decision based on the applicable laws and regulations.

6. All administrative disputes.

7. Other issues which are not cases or disputes but mere requests and memos which are outside the jurisdiction of any court and has to be settled for the sake of justice.

8. Any other issues submitted before the court according to the provisions of law.

Reasons for Appeal

According to Article 33, any appeal or objection submitted before the High Court of Justice by individuals or organizations has to be based on any of the following reasons:

1. Jurisdiction.
2. A fault in formality.
3. Contradicting the laws or regulations or a misinterpretation of such laws and regulations.
4. Abuse or misuse of power as defined by the law.



Local Journalists Attend Workshop on Covering Court News

The Media & Public Relations Department at the HJC organized an innovative media workshop in cooperation with the USAID-funded projects Aswatona and the Netham.

The workshop was attended by 25 reporters from different local media outlets.

The Director of the Media and Public Relations Department gave a brief presentation on the basic principles of and regulations on covering court news.

This was followed by a panel discussion during which the Chief Justice Essa Abu Sharar spoke of the status of the judiciary and answered reporters' queries.

High Judicial Council Participates in Human Rights Committee Meeting

The Director of the Media & PR Department at the HJC, Majed Aruri, participated in the Human Rights and Good Governance Committee meeting (a sub-committee of the joint Palestinian European Committee) which was held under the auspices of the Ministry of Foreign Affairs on 2 December 2008.

At the meeting, the HJC representative spoke of the latest developments at the judiciary during the year and the impact of these developments on the fulfillment of human rights in the Palestinian areas.

Chief Justice Presents Speech in Reform Conference

Chief Justice Essa Abu Sharar, the President of the High Court, presented a speech on 3 December 2008 during a conference organized by the Elections & Democracy Monitor in the Arab World in cooperation with Friedrich Naumann Foundation.

The conference theme was reform within the PA, including the Judiciary Authority.

His Excellency spoke of the HJC's achievements during the year, such as the appointment of new judges as well as reductions in the case backlog and a strengthened relationship with civil society organizations.

Strategic Plan for the Media & PR Department at the HJC

American media consultant Beverly Jensen, who is presently on assignment in the UAE, completed a two year strategic work plan for the Media & Public Relations Department at the HJC.

The work plan was based on Ms Jensen's discussions and meetings with local journalists, CSO representatives and senior staff at the HJC. In the draft plan, Ms Jensen recommended that the name of the department should be changed to the Information Department.

On the plan, the HJC Media & PR Department organized a focus group on 3 December 2008 for local journalists. To note, all preparations and activities related to the strategic plan the related were organized by the USAID-funded project Netham.

A PANEL DISCUSSION IN BETHLEHEM ON THE JUDGES CODE OF CONDUCT

In cooperation with The Coalition for Transparency and Accountability (AMAN), the HJC organized on 27 November 2008 at Jacir Palace Hotel in Bethlehem, a discussion panel on the judges Code of Conduct and the on the international convention to fight corruption. The panel lasted for two days with the participation of 20 male and female judges from the West bank.



BETHELEHEM WORKSHOP

FOR A JUDICIARY THAT CAN GAIN THE CONFIDENCE OF THE CITIZEN ANY CITIZEN HAS THE ABSOLUTE RIGHT TO HAVE ACCESS TO INFORMATION AND HAS THE RIGHT TO COMPALAIN OR EXPRESS AN OPINION ON THE COURTS DAILY ACTIVITIES.

DEAR CITIZEN

IF YOU HAVE ANY COMPALINT OR ANY OPINION ON ANY OF THE REGULATORY COURTS, DO NOT HESITATE TO CONTACT THE JUDICIAL INSPECTION DEPARTMENT, AS IT IS THE AUTHORIZED PARTY TO RECEIVE CITIZENS' COMPALINTS.

FOR MORE INFORMATION: CALL THE INSPECTION DEPARTMENT ON :02 - 240 8165

Administrative Team Named to Unify Work Procedures in Various Court Departments of West Bank

H.E. Justice Essa Abu Sharar – the Chief Justice of the High Court and President of the Supreme Judicial Council – commissioned a number of court staff to establish an administrative working team to implement a software that uses new and modern techniques to unify procedures in West Bank Courts and its Departments.

This includes the Clerks' Office, the Notification Department, the

Enforcement Department, and the Notary Public Department.

The unification process will be implemented according to a work plan which was prepared by the team in consultation with a representative from Netham, USAID's funded - Netham Project.

The team includes the following members:

- Mohamad Alawneh, Team Coordinator and Representative of the High Judicial Council Secretariat
 - Ahmad Shehadeh, Representative of the Engineering and Maintenance Department
 - Abdul Rahman Abdul Khalek, Chief Clerk at the High Court
 - Mhamad Dar Khalil, Chief Clerk at Ramallah First Instance Court
- The administrative team is assisted

by a counter team from Netham, and includes Husein Sholi, Nader Hamadneh, and Ma'ali Shawish.

The team's activities began with an exploratory visit to Nablus and Jenin Courts so as to monitor the process and procedures applied in the courts' various departments and to submit to the Chief Justice recommendations on improving the work procedures.

Under Transparent Procedures

The HJC conducts a competition to choose candidates for the position of Conciliation Judges in West Bank Courts



TESTING SESSION FOR RECRUITMENT COMPETITION.

The HJC organized a written test to recruit judges for Conciliation Courts in the West Bank on 6 January 2009 at the National Institute in El Bireh City.

The vacancies and test were announced on the HJC's website on December 15 2008, and in local

newspapers.

Following transparency regulations for filling vacant positions at the HJC, representatives from the Bar Association as well as from the Citizen's Commission for Human Rights and Al Haq were invited to super-

vised the exam and submit a report with their recommendations to the HJC.

Advocate Musa Hjeir from the Bar Association and Advocate Alaa Ghanayem from the Commission for Human Rights as well as Advocate

Rafeef Mujahed from Al Haq supervised the exam.

The supervisors were also invited to attend the oral exam which took place on 12 January 2009.

The HJC also appointed a committee for the conciliation judges' competition whose members include: Eman Naser El Din (Chairman of the Committee), Fathi Abu Srour and Rafiq Zohdas members of the committee.

Judge Naser Edin said that the committee assessed several applicants for the Conciliation Judge position in accordance to the announced regulations and conditions.

The selected applicants will be chosen according to legal regulations which include being practicing lawyers for at least 2 years.

She added that, in accordance with regulations for selecting conciliation judges, 60 points will be given for the written exam and 20 for the verbal portion, in which the applicant's personality and adequacy for the legal position are assessed.

Judge Edin said that final results will be announced on HJC's website.

Article

Judicial Inspection in Palestine, Judicial Year (2008/2009)

Many principles, doctrines and theories affect judicial inspection. They are related to the role of the judiciary, its independence, its role in the society and the existence of the judiciary as a third independent branch of government, and to the understanding of the role and the meaning of the inspection by legal professionals and society.

The judiciary had faced many obstacles which constituted a direct threat to its existence – it shares such threats with the other two authorities, the legislative and the executive. Hence, the Palestinian judiciary and its struggle to rise and protect its independence and esteem constitutes a unique experience when compared with experiences of other nations.

It is important, at the beginning of this paper, to present some mechanisms related to the work of the Judicial Inspection Department and the role it plays in light of the general conditions of the Palestinian people and the conditions of the judiciary, which is an indivisible part of this people.

In light of the recent rise of the Palestinian judiciary, and despite the obstacles and problems faced, there was an urgent need to enforce the role of the Judicial Inspection Department as a part of the High Judicial Council (HJC). In order to do so, the HJC issued the Judicial Inspection Regulation according to Decision Number 4 of 2006 on the 10th of May 2006. This regulation was issued in order to empower the Inspection Department and allow it to assume its supervisory role and to guarantee, to the extent possible, the smooth operation of the various courts. In addition, the regulation was issued in order to avoid the mistakes and mishaps which dominated the courts' functions during the last years and prevented them from executing their powers given to them by the Basic Law.

Based on this understanding, the Inspection Department started to carry out the duties and functions stated in the Inspection Regulation. The HJC sent the Inspection Department members to attend multiple training programs and conferences outside the country to review and understand other nations' experience in this regard. It also provided the Inspection Department with a number of High Court and Court of Appeals judge to serve as inspectors and compensate for the lack for such a cadre in the department.

Before we give a quick illustration re-

garding some of the functions and duties of the Inspection Department, we must point out two main values which underlay the work of the department: first, we work to build and enhance the public's trust in the judiciary. The role of the inspection in this area has become very important and the ordinary citizen has started to realize that there is some control and supervision of the courts' works and functions on a daily basis. This will enhance the public's trust and confidence in the judiciary and encourage them to refer their disputes to the courts. This means that the public will be the most important supporter of the judiciary and its independence.

The second consideration is that the independence of the judiciary, as a principle, necessitates that the inspection and supervisory functions over the courts and judges shall be made by a body from within the judiciary and that such powers cannot be given to any other body or institution. This means the judicial inspection is the only way by which supervisory powers can be performed over the functions of the courts.

With a full understanding of the above considerations, the Inspection Department started since the beginning of this judicial year (2008/2009), meaning since the beginning of September 2008, to conduct unscheduled visits to all the courts in the West Bank during that month. The Inspection Department provided the HJC with details and results of such visits through the inspectors' reports that covered the work of both the judges and the courts' staff. The HJC issued many directives and orders to the courts and judges based on these inspection reports.

The important aspect, from our point of view, is that the courts know and feel that the HJC is in touch with it through the inspectors who are always present in the courts and work as a communication medium between the courts and the policy makers on a daily basis and the HJC started to take the initiatives in solving the courts' problems.

It is noted that many of the courts' needs were dealt with properly by the Inspection Department and the HJC as a result of these visits. For example, the training needs of the judges were surveyed through the inspection visits and many training programs were developed based on such feedback.

Besides the unexpected visits, the department made many scheduled visits, meaning that the court received advance notice. The Department conducted eight such visits during the month of October 2008 and another eight visits in November, in addition to some unscheduled visits. The aim of the scheduled visits was to evaluate the judges' work and to review if they applied the law correctly and fulfilled all the procedural requirements and also to review reasons for adjourning the hearings, in addition to checking the time needed to dispose of the case. The department also inspected the work of the notary public departments, the enforcement departments and the courts' staff. Repeated visits were made to some of the courts which were found to have administrative problems.

The result of such repeated visits was an obvious enhancement in the courts' performance. For example, one of the courts scored a 30% improvement in the notifications rate after an inspection of the notification department, in which the inspectors gave recommendations to the staff on the notification procedures and rules. This example has been reproduced in many courts and various departments, such as the enforcement and notary public departments.



By Judge Raed Abdulkhameed

The scope of work of the Inspection Department is not limited to the two types of visits it conducts to the courts and its various departments but includes receiving the public's and lawyers' complaints on the performance of the courts, judges and staff. The Department deals with such complaints according to the rules stated in the Inspection Regulation and submits its recommendations to the HJC for appropriate action. It is worth noting here that the duties and functions of the Inspection Department do not constitute a way to object to the courts' judgments.

This must be understood because the function of the Inspection Department cannot and shall not affect the courts' convictions since the courts are free and independent and no power shall affect their judgment and convention. Inspection is a tool by which we can guarantee the correct processing of cases in a way that would increase the public's interest in the courts and the judiciary.

We hope that, through this summary illustration of the Inspection Department, we were successful in disseminating some of the ideas and we hope that we will have the needed means and opportunity to achieve more success that the judiciary will be proud of.

The Inspection Department embarked, as of September 2008, on carrying out spontaneous visits to West Bank courts over the course of the month. This was part of a work plan for the year 2008/2009.

The Department's Action Plan is not restricted to spontaneous and organized visits to the courts (a minimum of two visits per court) but also includes handling citizens' and lawyers complaints related to judges, courts and courts staff.

Eight Inspection Visits Made to West Bank Courts

As part of the High Judicial Council efforts directed to ensure effective functioning and work of the Regular Courts, the Inspection Directorate conducted eight inspection visits in October 2008. The visits included all Conciliation, First Instance and Appeal

Courts of the West Bank. The inspection team included four judges from the Inspection Department who have the power to inspect the court's work and ensure that all the procedures followed are correct and in accordance with the law. The visits conducted

were pre-arranged and scheduled with the concerned courts, in contrast to the unscheduled visits that were made to certain courts the previous month. Judge Raed Abdul Hameed, a member of the inspection team, said that the visits and work of the Inspec-

tion Department have had positive effects on the courts and the judges' work, such as greater adherence to the working hours, organization of files and improvement in the services provided to the public and disposition of cases.

Chief Justice Meets with CSO Representatives



CHIEF JUSTICE ESSA ABU SHARAR AND ADNAN SHUAIBI, MEMBER OF THE JUDICIAL COUNCIL

In October 2008 H.E. Justice Essa Abu Sharar - the President of the High Court and the President of the High Judicial Council - met at his office in Ramallah with representatives from civil society organizations, aiming to strengthen cooperation and communication between the judiciary and civil society, as well as to tackle the problems facing the judiciary. H.E. spoke of the developments in the courts' work during 2008. He said: "There is an improvement in the courts' performance; the courts disposed of a total of 55,934 since the beginning of 2008 until September of that year, while for the same period in 2007 they disposed of only 33,441." He added: "The increase in the number of working judges and the expansion of the court buildings has started to benefit the judiciary and its performance."

Attendees expressed appreciation for the initiative to Justice Abu Sharar and stressed the importance of holding such meetings. They also said that there has been noticeable development in the judiciary sector. Some of the speakers highlighted the importance of supporting the judiciary as the third branch of government. Others made more pointed suggestions, for instance, that police should be empowered to deal with traffic infractions instead of having the courts handle such cases. Some participants complained that they were not able to gain access to information related to their area of work.

Most Civil Society Organizations Welcome MoU Initiative

The High Judicial Council Releases For Discussion Draft Memorandum Of Understanding To Regulate Relationship With Civil Society Organizations

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Following a presentation of the main issues in the draft memorandum of understanding, the panel was open for comments and discussions. Most of the organizations and institutions that attended the meeting praised and welcomed the initiative, though both the Palestinian Commission for Citizens Rights (PICCR) and Mu-sawa rejected the idea of having a memorandum of understanding to regulate the relationship between the judiciary and the CSOs. The Coalition for Integrity and Accountability (Aman) agreed to be in charge of incorporating the comments on the draft memo.

”

The meeting was attended by a number of civil society organizations including the Palestinian Center for Human Rights, Treatment and Rehabilitation Center for Victims of Torture, Dameer, and AMIN News Network. The meeting started with a welcoming speech by Judge Rasha Hamad, HJC's Secretary General, who said: "The aim of this meeting is to strengthen the cooperation between the HJC and the CSO in order to build a judiciary that can provide justice for all and to show that the HJC is ready to receive and deal with any complaint submitted by the civil society organizations." The Director of the Public Relations and Media Affairs Department at the HJC, Majid Aruri, then presented the draft memo. "This memo is based on international norms and standards related to supervision and monitoring of trials and justice administration," he said. "The MoU's aim is to decrease the gap between the judiciary and the civil society organizations." He also added: "The MoU does not aim to limit any party's functions, rather, the HJC encourages all concerned institutions and organizations to produce monitoring reports on the courts' work and the guarantees for a fair trial."

Launching into a lively discussion of the MoU, Dr. Azmi Al Shuaibi, Aman's Commissioner General said: "The discussion we are about to hold is to regulate and organize the relationship between CSO and the HJC and we are against discussing in this meeting the previous positions taken against the HJC." He also added: "There is a problem with the concepts defined in the MoU, therefore we have to reach an agreement on this issue. Anything which is not objective in the memo must be deleted." Shuaibi stressed that the relationship between the two parties should be a supportive one, helping the other to carry out its duties. He elaborated: "As CSOs, our duty is to ensure that each citizen has his or her



HJC MEDIA & PR DEPARTMENT MEETING WITH CSO REPRESENTATIVES

rights for a just and a fair trial. This is our right as CSOs. This role is not to affect or undermine the integrity and independence of the judiciary."

Attorney Sha'wan Jabareen, the Director General of Al Haq said: "When we deal with the MoU, we approach it in a positive way, assuming that the HJC is reaching out to the CSOs in order to find mutually agreed upon mechanisms for cooperation and dialogue." Jabareen commented on some provisions in the memo which he deemed ambiguous and requiring clarification.

The Director of Al Quds Center for Legal Aid, Issam Arori said: "Any violation of the judiciary esteem and respect is not in the interest of the CSOs." He also added: "We do support the MoU. We, as human rights and civil society organizations, see that the judiciary is our ally and protector and the party that violates the esteem and integrity of the judiciary is the executive body. We need to read the draft of the MoU with a positive attitude and to see it as a part of the efforts directed towards enhancing the performance of the judiciary and its right to see

the impact of its reform efforts on the public."

Aref Jafal, Director of the Arab World Elections and Democracy Watch, also commented on the draft memo. "The relationship between the judiciary and the civil society institutions was not a good one. We do support such a memo, but it must be redrafted, and we are against any limitations imposed on the civil society institution unless such limitations are stated in the law."

In an unprecedented move in Palestine, the HJC released for discussion a draft memorandum of understanding aiming to regulate the relationship between the HJC and the Palestinian Civil Society institutions working in human rights and good governance. The Public Relations and Media Affairs Department at the HJC, in cooperation with the Coalition for Transparency and Accountability (Aman), held a meeting at Aman's offices which was attended by representatives from various civil society organizations. During the meeting the draft memo was presented for discussion.

**CONTINUED
ON PAGE ONE**

CHIEF JUSTICE ESSA ABU SHARAR SPEECH ON THE OCCASION OF THE 2008 TRANSPARENCY FESTIVAL

Ladies and Gentlemen,

Honorable Guests,

Peace and the mercy and blessings of God be with you

Firstly, I am pleased to extend my thanks and appreciation to the Palestinian Coalition for Integrity and Accountability (Aman) and its Commissioner Dr. Azmi Souibi, for focusing in the 2008 Transparency Festival on the enhancement of the Rule of Law and the independence of the judiciary and secondly for giving me the opportunity to address this honorable group of guests and the Palestinian public.

Ladies and Gentlemen,

It is very obvious to many of you the extent and size of accomplishment that were achieved in the judiciary during the past period. These achievements were the result of the efforts and cooperation of both the Presidency represented by H.E. President Mahmoud Abbas (Abu Mazen) and the Council of Ministers represented by H.E. the Prime Minister Dr. Salam Fayad. Both establishments provided the Judiciary with the needed financial and man power especially the financial support to appoint new judges and court staff. Presently, the number of new appointments in the Judiciary is double the appointments that were done in the past ten years.

Ladies and Gentlemen:

In recent years the High Judicial Council took many important steps towards the development of its organizational structure and towards enhancing the integrity and accountability of its performance. The steps made this year include the following:

1. The High Judicial Council was concerned that all the recently judicial and administrative appointments are done according to institutionalized and transparent procedures. In order to achieve this, an appointing committee was established and this committee followed very transparent procedures in choosing the applicants. These procedures included written and verbal exams, interviews that were done according to written and published standards. The civil society institutions were also given the right to follow up on this process in addition to publishing the results on the HJC's website.

2. The establishment of a Media and Public Relations Department, which started its operations in October 2008 by publishing information and facts related to the judiciary and by making this information available to the public and interested organizations. We are working now on developing the media and awareness plans and strategies which the department will implement. The council believes in the importance of transparency and in providing the information related to the judiciary to the public whether this is done for information, research or for criticism.

3. The council took many important steps in order to activate the Inspection Department. It increased the number of inspecting judges and provided the Department with the needed equipment. As a result of these steps, there was recently a clear increase in the effectiveness of the

judicial inspection. There was also an increase in the number of inspection visits done to the courts which improved the work of the courts and the judges. This department also serves as a link between the judiciary and the public, the lawyers and civil society organizations who wish to submit a complaint related to the judiciary or its functions.

4. The adoption of financial and administrative regulations that would govern the work of the High Judicial Council and its various departments in addition to the courts. These regulations illustrate in a very detailed manner the procedures that have to be followed in judges appointment, promotion, accountability and discipline. The council also adopted certain tools and measures that would increase its supervision on the courts such as the use of digital attendance clocks in order to oversee the staff's working hours.

5. Complete all the technical steps needed in order to publish the Palestinian High Court judgments on the Council's website and we do anticipate that such service will be available to the public within the coming few weeks.

Ladies and Gentlemen:

Some of the achievements that were made recently and that we are honored to present to you:

- The establishment of a substantial number of new courthouses which are spacious, safe and conform to standards, as is the case in Nablus, Jericho, and in the very near future in Jenin and Bethlehem. Courthouses, in our view, have to be palaces of justice and any individual who enters the courthouse needs to feel safe and should sense the integrity and esteem of the judiciary.

- Improving and upgrading the Services Departments, whether they provide services directly to the public such as the Notary Public, the Enforcement Department or provide services to litigants and lawyers, such as the Clerks' Offices and the Notifications Departments. The Council renovated some of these departments in a number of courts in addition to supplying many departments with the required furniture, equipment and the adoption of new archiving systems which expedites the work and make it transparent. All this was implemented so that departments will function to preserve the respect and dignity of litigants and the public alike.

- As to the judicial education, the Palestinian Judicial Institute was established and includes the needed training facilities. Since its establishment at the end of 2007, the institute has conducted many training programs for new judges and court staff. The council was also able to send both newly appointed and senior judges to training programs in sister countries such as Jordan and Yemen.

- In its efforts to establish key perform-

ance indicators and base line information, the council started recently to conduct a number of surveys in order to assess the satisfaction and trust the judiciary holds among the public, lawyers and litigants. The council is very keen to conduct such services on an annual basis so it can assess its work and the reform and development steps it takes.

Ladies and Gentlemen,

One of the key issues our strategic plan focuses on is the council's devotion and commitment to overcome the case backlog in the many courts that suffer from this grave problem. Case backlog is the source of many problems the Palestinian Justice System and it affects the public and their interests. In order to solve this problem, the council declares for the first time that it is in the process of conducting an assessment study to identify the true reasons behind the backlog. The study is in its final stages and the final results will be soon available. The assessment study is being conducted by a team of experts who reviewed a sample of more than 4,000 Conciliation and First Instance Courts pending and closed case files in Nablus, Jenin and Ramallah. The aim of the study is to identify the reasons behind the delay in disposing of cases

and also to identify the types of cases which usually incur delay and to find who is responsible for this delay. The study will include a number of recommendations regarding the best ways available to encounter backlog in the courts. Some of the preliminary results of the study are:

1. There is an increase in the number of new cases registered in 2008 in comparison with the number of new cases registered in 2007. There is also an increase in the number of disposed cases in 2008 in comparison to the year 2007.

2. The study shows that the courts disposed of a large number of simple cases where the parties were present, but the courts were not able to do the same in other cases for internal and external reasons, such as lack of judges, the weakness of the notification system, problems related to the work and the function of the Police and the Public Prosecution and the weakness of Procedural Laws.

3. Due to the panel system followed in First Instance Courts, the disposal rate in such courts is low.

4. The various types of Israeli military checkpoints positioned at the entrances of towns, villages and populated areas played a key role in causing delay in courts. The area behind the wall also serves as a safe haven for fugitives

Ladies and Gentlemen,

Based on the preliminary results of the above mentioned study, the council is in the process of taking steps to mitigate the effects of case backlog:

1. The council will hold on the 5th of January 2009 a conference at Jenin's

courthouse. The conference will be attended by Chief Judges from all courts, in addition to a selected group of judges, so as to discuss the recommendations of the study and to adopt the best policies and practices accordingly.

2. The council is discussing presently the adoption of some unprecedented steps such as the increase of working hours or to open the courts during holidays in order to fight case backlog.

3. Enforce the court's administration through the establishment of a team to include representatives from the courts' clerks offices, the Enforcement Department, the Notary Public Department, and the IT Department in order to unify the procedures applied in the courts.

4. Identifying very old cases that date ten years back or more. Following the case identification, the causes of the delay will be determined. Chief Judges will be requested to focus on such cases in order to dispose of them within a certain period of time. The Inspection Department will be also requested to follow up on such tasks.

Dear Honorable Guests,

The measures outlined above are part of the work plan needed in order to combat case backlog, but not all the measures needed are stated. In order to solve the problem, the Executive, in addition to the judiciary and other powers, need to perform their duties according to the following:

1. A number of laws related to the judiciary and its work have to be rectified. Amending the panel of judges system in cases other than felony in the First Instance Court is a priority. We should also enforce the role of the judge in managing their cases, in addition to increasing the penalties applied on the parties when they don't appear in the hearings without a legitimate reason.

2. The fact that the Public Prosecution is a very important element in criminal cases, special attention has to be given to this body and it should be supported so that it can represent the public's interests in criminal cases.

3. Enforce the police's work related to the litigation process. The Police shall be able to protect the courthouses, bring defendants to the courts from the holding locations they are held at and be able to summon and bring witnesses.

4. Enforce the role of the Bar Association through disciplining the lawyers who allow their cases to drag on and do not attend the hearing session on time, especially in criminal cases.

5. Issuing a General Amnesty Law which would lead to the dismissal of thousands of criminal cases which have been jamming the system for a considerable time, especially simple cases which are not being attended by the plaintiffs, such as slander and defamation cases. Finally, in the name of the High Judicial Council and myself, I would like to thank again the individuals who are behind organizing this conference, especially Dr. Shuaibi, for the great efforts they make in order to uplift the Palestinian Judiciary and I am honored to sign the Judicial Code of Conduct which we hope that will constitute another addition to what we have achieved so far. Peace and the mercy and blessings of God be with you.

**One of
the key issues
our strategic plan
focuses on, is the Councils
devotion and commitment to
overcome the case backlog
in the many courts that
suffer from this grave
problem.**

Judicial Training - Enhancing Judges' Capacities based on Judicial Needs

In its 2008 – 2010 strategy, the Palestinian Judiciary concluded that the process of strengthening the judiciary cannot be complete without emphasizing the human element. This includes, first and foremost, the judges who constitute the main core of the judiciary. In order to achieve the important task of enhancing the capacity of the judges, the strategy stated that the High Judicial Council (HJC) will work on developing specialized training programs for each cadre of judges according to the sector's needs and based on a training needs survey targeting all the judges. Additionally, the HJC would coordinate all judicial training schemes with the Palestinian Judicial Institution. The coordination would include development and execution of the training programs based on preset training agendas and schedules.



TRAINEE CONCILIATION JUDGES IN A GRADUATION CEREMONY IN JORDAN

In order to achieve the goals set out in the strategy, the HJC acted promptly. On 12 October 2008, nine Palestinian law school graduates joined the Judicial Diploma Program (2008-2010) at the Judicial Institute of Jordan. This step was facilitated through a scholarship provided to the students by the HJC. According to H.E. Judge Essa Abu Sharaar – President of the High Court and President of the HJC – the graduates of the Diploma Program shall be appointed as Conciliation Court judges upon their return. The nine students were chosen through a public contest which was published in the daily newspapers. Following are the names of the nine students who are presently enrolled in the Diploma Program in Jordan:

- Husein Yousef Mohammad Yaseen
- Khaled Mahmoud Ahmad Ma'ali
- Izdehar Kamel Ali Sa'ad .
- Mohammad Mahmoud Mohammad Ghali
- Ramiz Mohammad Murshed Jomhour
- Yasmeen Hisham Salah Oriqat
- Rula Omar Jubrael Salibi

- Islam Rebhi Saed Al Husaini
- Mahmoud Ahmad Abu Aiash

In addition to this training program, and as a part of the (HJC's efforts to increase and strengthen the judicial and legal skills of newly-appointed judges, ten new Conciliation Courts judges participated in a training program organized by the Judicial Institute of Jordan. The training took place between 12 and 23 October 2008. The participants received judicial training on the applications of various laws that are applicable in the Conciliation Courts, such as the Civil and Commercial Procedures Law, the Criminal Procedures Law, Labor Law. The participants also had the opportunity for practical training before the Jordanian courts. Upon completing the previously mentioned programmed, the trainers also participated in a one-week training program on land disputes. This program was carried out with cooperation with the Land Authority and funded by the World Bank.

The first training program at the Ju-

dicial Institute of Jordan was part of a package of three separate trainings, and which would provide training for thirty newly appointed judges. All three programs are implemented with the support provided by the United States Agency for International Development (USAID). Following are the judges who participated in the first training program:

- Mai Ismael Abu Shanab
- Saleh Omar Jafal
- Wisam Asad Salaimeh
- Saed Tawfiq Al Ewaiwi
- Asad Taiseer Dahdoh
- Falasteen Abu Roomi
- Musa Abdel Aziz Sya'reh
- Mahmoud Khairi Mahmoud Theeb
- Adel 'Mohammad Lo'ai' Abu Saleh
- Musleh Abu Aram

A new training program for newly-appointed 14 Conciliation Court judges took place at the Palestinian Judicial Institute on 14 October 2008. This training program is due to be completed on 21 January 2009. It is worth noting that the Palestinian Judicial Institute had carried out many training programs including a training program which targeted twenty Conciliation judges in addition to five First Instance judges. The program took place between the 8 June and 31 August 2008. Upon conclusion of this training program, the judges were assigned to their respective courts to start work. The Palestinian Judicial Institute also conducted several training programs for court staff which included Court clerks, Enforcement Officers, Head Clerks, Notary Public Officers as well as other staff members.

Focus: Trainee Judge from Ramallah

Judge Saleh Jafal from the Ramallah Conciliation Court attended a training program at the Jordanian Judicial Institute, and said: "During the training program, we were introduced to the judicial norms in the Hashemite Kingdom of Jordan and we were able to learn some of these norms and rules of conduct, which any judge should adhere to during the performance of his or her judicial duties. Here I would like to emphasize the impact of the lectures the President of the Jordanian Court of Cassation gave us on the topic. As for the lectures which were designated for Palestinian laws such as the Evidence Law, the Civil and Commercial Procedures Law and the Criminal Procedures Law, the outcome was not as good as anticipated due to the differences in the applicable laws between Jordan and Palestine and the fact that the trainers were not

knowledgeable about Palestinian laws. On the other hand, the results of the practical training on land division, labor and eviction cases was positive because of the large number of such cases before the courts. As for the field visits made to the criminal labs and to the corner office, they had a very positive impact on the participating judges because of the importance of the reports such organizations submit to the courts, especially on the issues of death causes, homicide cases as well as the analysis of evidences at the crime scene.




Focus: Female Trainee Judge from Bethlehem

Judge Falasteen Abu Roomi from Bethlehem Conciliation Court who participated in the training program held at the Judicial Institute of Jordan between 13-23 October 2008 gave the following comment on the program: "The training program was a good one due to the high caliber of training judges. The trainers were knowledgeable and experienced especially the Cassation and Appeal Court judges. We also felt that they were very willing to teach us and provide their knowledge to us." Judge Abu Roomi added: "We also acquired useful practical skills as Conciliation Court Judges especially in the area of Court Administration, Hearing Session Management, and how to handle case parties, the rules of judicial conduct and to preserve the court's dignity without abusing the powers we hold as judges. We were also introduced to new systems such as the Case Administration and how such a system shortens the trial period and prevents backlog. We were also introduced to the notion of specialized judges such as Eviction Cases Judges

and Land Distribution Judges. Our training program was divided into two parts: the theoretical part and the practical one. Despite the importance of the lectures that were made during the theoretical part of the training, the practical part had a bigger advantage and more impact on our work. We were able to participate with the judge while he was dividing a land lot between many partners. We also visited the Criminal Laboratory Department and were able to witness the abilities of this department in analyzing DNA and drugs and its ability to reveal forgery in a very professional and timely manner. She concluded by saying, "I feel that I am more confident in carrying out my duties as a judge I look forward for a better future."





Qadaona (Our Judiciary)
 A Quarterly Magazine
 Published by the Judicial Authority
 (the High Judicial Council)

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Supported by USAID Funded - Netham Project.

