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# MASAQ Rule of Law Project

**Contractor: DPK Consulting**

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## **Future Directions of Jordan's Judicial Upgrade Strategy and Review of MASAQ**

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## Acronyms List

USAID	US Agency for International Development
COP	Chief of Party
CM	Case Management
ICT	Information & Communication Technology
ITD	Information Technology Department
I&M	Inspection and Monitoring Directorate
JC	Judicial Council
JIJ	Judicial Institute of Jordan
JUST	Judicial Upgrading Strategy
MIZAN	Case Management software application
MOJ	Ministry of Justice
NPOJ	New Palace of Justice
RM	Records Management

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## 1. INTRODUCTION

At the request of DPK Consulting and USAID, I visited Jordan from June 25 to July 6, 2006. My visit had two objectives:

First, it was anticipated that there would be an opportunity to engage in a dialogue with senior Jordanian officials about next steps for the Judicial Upgrade Strategy (JUST), which had been initiated by the Ministry of Justice for the period 2004-2006.

Second, since the USAID MASAQ project managed by DPK Consulting was completing its second year of operation, it was considered desirable to have a review of its performance. Such a review is contemplated in the DPK Action Plan for 2006.

Because a principal purpose of MASAQ is to support the development of JUST, most of the research conducted in this assignment was relevant to both objectives of the visit. The background, specific objectives, methodology and deliverables for this assignment are set out in the Terms of Reference at Annex A.

In preparation for the visit to Jordan I spoke with representatives of USAID, the Department of State and the American Bar Association in Washington about their respective programs and activities in Jordan with regard to the justice sector. I also read a variety of materials provided by DPK's headquarters office in San Francisco and the MASAQ office in Amman, and consulted public data bases about Jordan's justice system. In Amman, MASAQ Chief of Party Walter Kuencer and his staff provided a wealth of valuable materials and arranged an extensive schedule of interviews and site visits. A list of persons interviewed in Washington and Amman is at Annex B.

Walter Kuencer, Deputy COP Diala Khamra, and the entire MASAQ staff were most generous, patient and helpful in sharing knowledge and insights and facilitating my access to relevant materials and informed individuals. I am grateful for their continuous assistance throughout my visit. At the same time, all opinions and judgments expressed in this report are strictly my own and I have sole responsibility for any errors of omission or commission in this document.

## 2. JUDICIAL UPGRADING STRATEGY (JUST)

### History of JUST

The Judicial Upgrade Strategy (JUST) was the initiative of Dr. Salaheddin al-Bashir, the reformist Justice Minister appointed in October 2003. With USAID support, he developed a plan that identified key challenges facing the judicial system and identified a nine-point program to advance a strategic goal of improving the overall performance of the judicial system while maintaining its independence. As described in the November 2003 statement of the new strategy, the nine-points (known as key reform pillars) were as follows:

1. Independence of the judiciary;
2. Standards and parameters governing the judicial system;
3. Judicial system efficiency;
4. Human resource development;
5. E-enabling and computerization of the judicial system;
6. Inspection and monitoring;
7. Infrastructure;
8. Organization and strengthening of Ministry of Justice; and
9. Specific interventions with stakeholders.

During the tenure of Dr. Salaheddin al-Bashir as Justice Minister, JUST was a focal point of reform for his ministry, other institutions concerned with the administration of justice, and cooperating international donors. Under his direction, the Justice Ministry developed in 2004 an action plan for the strategy's implementation that included hundreds of items. However, after his departure from government in April 2005 the initiative lost momentum. JUST remains the nominal framework for modernization efforts. However, subsequent ministers have tended to identify priorities within the strategy on a selective basis more than to pursue the integrated reform approach originally contemplated.

In June 2006 the Ministry of Justice Coordinator for JUST, Judge Ali Masri, prepared a status report on JUST achievements and ongoing projects. The English version of this document shows a number of departures from the original plan.

The report identifies four goals for JUST, rather than a single strategic vision:

1. Enhance judicial independence and ensure competitiveness of the sector based on best international practices;
2. Issue legislation necessary to enhance the effectiveness of the judicial process;
3. Enhance the capacity of the Ministry of Justice to enable it to perform its duties (including that of the Inspectorate and the Judicial Institute); and
4. Provide the key stakeholders with the needed support and services to enhance their capacity

Under this revised structure, the nine key reform pillars have become 11 components, as follows:

1. Safeguard and enhance judicial independence and integrity;
2. Improve judicial system efficiency and streamline processes and procedures;
3. Reduce demand on courts;
4. Strengthen inspection and monitoring;
5. Upgrade court infrastructure to facilitate access to justice;
6. Build the Ministry of Justice organization;
7. Automate judicial procedures;

8. Establish efficient human resource systems;
9. Improve efficiency of services provided by various court departments: public prosecution, notary public, execution, and notifications;
10. Improve capacity of related stakeholders, including the bar association and law schools; and
11. Conduct continuous legislative reviews.

The above outline of the revised JUST structure raises a number of questions. For example, there is considerable duplication between the four strategic objectives, on the one hand, and the 11 components on the other. More fundamental, not all the goals appear to be genuinely strategic. For example, effectiveness of the judicial process involves much more than the enactment of legislation. The second goal, therefore, seems to capture only one aspect of the challenge.

Despite the reduced momentum during the past 15 months, JUST has achieved a number of important milestones. USAID and other international donors have supported this progress. Noteworthy achievements cited in Judge Ali Masri's report, keyed to the 11 components, include the following selected items:

- Component 1: Adoption of a judicial code of ethics and formation of a Judicial Council standing committee on judicial ethics;  
Completion of surveys of public perceptions of the judicial system;  
Introduction of an improved case file system;  
Creation of an accountability mechanism, based on a comparative study of seven countries;  
Design of a communication strategy for the Ministry of Justice;  
Improved organization and staffing of the Judicial Council.
- Component 2: Design of court organizational structures and job descriptions;  
Development of statistical data on case volume;  
Standardization of forms for notifications, subpoenas and certain court summonses;  
Design of court facilities to hear testimony of juvenile crime victims.
- Component 3: Adoption of a mediation law and training of judges in mediation;  
Initiation of a public awareness campaign on alternative dispute resolution;  
Opening of a civil mediation department in the Amman First Instance Court.
- Component 4: Adoption of new inspection criteria and forms;  
Provision of improved facilities and equipment for inspectors.
- Component 5: Development of model court designs for future construction;  
Installation of 800 computers in the courts;  
Re-engineering of the work flow in the Amman First Instance Court;  
Acquisition of distance training labs for the Judicial Institute of Jordan and the Amman First Instance Courts.
- Component 6: Adoption of a new organizational structure for Ministry of Justice units, including new strategic planning and human resource directorates.
- Component 7: Development, installation and use of information software for selected courts, court departments, and the inspection directorate;  
Linkage of selected court information systems through networks;  
Installation of computers and computer labs for training;  
Training of judges and staff in use of computers and automated systems.
- Component 8: Adoption of new organizational structures for courts;

Adoption of annual continuing education plan for the Judicial Institute of Jordan.

- Component 9: Provision of needed equipment and training for public prosecutors, notifiers, and notaries public.  
Achievement of enhanced coordination between judicial execution and public prosecutors;  
Appointment of qualified staff to the Technical Office of the Supreme Court.

In addition, the Ministry of Justice has prepared a plan for 2006 that lists 21 items to be accomplished. However, these items are not explicitly linked to any of the JUST goals or components and a number of them lack the specificity needed to monitor implementation. For example, one of them is to "develop and simplify the procedures in the courts and execution departments." This is an admirable objective, but does not specify the actions needed to achieve the desired result.

### **Extending and Revitalizing JUST for 2007-2009**

In my initial meeting with the Minister of Justice, Dr. Abed Shakhanbeh, the Minister expressed interest in having external support for planning to extend JUST as a forward-looking strategy for the coming years. He acknowledged that realizing the ambitious JUST goals would require more time than the original three-year period of the strategy's existence.

The Minister believed there was a need for assessment of accomplishments to date and future priorities. He indicated that this assessment should be developed by a core group including the Secretary General of the Ministry and the Chief Inspector, as well as Judge Ali Masri. Once a clear vision emerges from this small planning group, he thought it would be desirable to organize a workshop with broad participation from judges, lawyers and other stakeholders to obtain input before adopting a specific plan. Issues of particular concern to the Minister were extending automation to all courts and identifying potential support from donors while assuring against overlap in donor-supported activities.

Subsequently, the Minister organized a meeting of the small planning group with MASAQ participation. The Chief Inspector, with whom I had met separately, did not attend. The Ministry was represented by Minister Shakhanbeh, Secretary General Ali Dmour, JUST Coordinator Ali Masri, and two judges assigned to the Ministry, Ammar Hussein and Theyer Adwan. Wally, Diala and I were present for MASAQ.

At the planning group meeting, the Minister advised us of his priorities for the future, which he described as including the unfinished agenda of JUST objectives as well as some new themes. I emphasized the importance of organizing priorities into a coherent strategic plan to project a compelling vision and also to facilitate efficient implementation and monitoring. As he had at our first meeting, the Minister expressed the desire to organize a workshop with judges and other stakeholders once the basic outline of a structure for an extension of JUST had been designed. Of course, we encouraged this element of participation in the formulation of the strategic plan.

The meeting culminated in a three-part request by the Secretary General: for our partnership in planning to articulate the vision the Minister had outlined; assistance in identifying possible financing; and partnership in the implementation. We expressed readiness to be of whatever assistance we could in the planning and development of a strategic plan, while making clear that our support for including items in such a plan did not imply any commitment by MASAQ, or by USAID, to assist in the financing or implementation of those items.

In preparation for the planning meeting I had drafted an outline of a possible statement of JUST goals and objectives, based on the original pillars, the existing list of components, other available written materials, and observations made by knowledgeable individuals in interviews and in consultations

with MASAQ staff. After the meeting, I reviewed the draft outline and made adjustments to reflect points that the Minister had emphasized in his presentation. The resulting document consists of six goals, with several specific objectives for each goal. The six goals are:

1. Achieve and maintain a sound legislative and regulatory framework for independence, integrity, efficiency and effectiveness of the judicial system;
2. Achieve and maintain efficient and effective performance of the judicial system;
3. Achieve and maintain a comprehensive automation of court proceedings, records and statistics;
4. Strengthen the capacity of the Ministry of Justice;
5. Achieve and maintain adherence to high standards of independence and integrity in the judicial system;
6. Achieve and maintain a strong human resource cadre to operate the judicial system.

The full text of the outline, including the objectives flowing from the above-listed goals, is at Annex C, together with a template for implementing that outline in an annual action plan. I shared these materials informally with Judge Ali Masri before departing from Amman and left copies with the MASAQ office.

In a final conversation with Judge Ali Masri, in which Wally participated, he indicated he would take the initial steps to create a draft 2007 action plan based on the structure I had suggested. We agreed that Wally, Diala and their MASAQ colleagues will support his efforts to refine the elements of the strategic plan and to frame the items that should be included in an implementing action plan. Judge Ali Masri suggested that he might send the draft documents to me through MASAQ for comment and I assured him of my readiness to offer whatever support he might wish. He also confirmed his confidence that there would be a workshop with stakeholders, and expressed interest in also organizing a broadly participatory judicial conference later in the year. The purpose of such a judicial conference would be to present to the nation's judges and other stakeholders the accomplishments of JUST, current initiatives and future plans, all organized around the goals of the strategic plan for 2007-2009.

### **3. MASAQ IMPROVED RULE OF LAW PROGRAM**

#### **Overview**

MASAQ is a major component of the USAID strategy of focus on good governance and civil participation in Jordan. The principal areas of concentration for USAID are support for the rule of law and parliamentary strengthening. With respect to the rule of law, the USAID Jordan website provides:

USAID will provide support to the Ministry of Justice (MOJ) in its efforts to make the judicial sector more transparent, efficient, and support the government's efforts to develop a free and independent judiciary. These objectives will be accomplished by training judges in technical legal fields to improve adjudications, automation of courts, including computerized case management and improved court administration; and a revamped judicial training institute, to include new coursework and new teaching methodologies.

MASAQ is the principal instrument for pursuing the above-quoted USAID program objectives. It includes the elements of judicial training, automation of courts, case management and court administration, and a revamped judicial training institute, referred to in the above quotation. More specifically, MASAQ objectives, according to the amended contract with USAID, are as follows:

1. Enhance the capacity of the Ministry of Justice to act as a driver of reform.
2. Upgrade judicial performance and enhance judicial independence (with emphasis on computerization; court administration and management; efficiency of support departments such as notarial services, notifications and execution; and training for judges and other judicial personnel; strengthened capacity of the Judicial Council).
3. Strengthen Ministry of Justice inspections and monitoring capacity.
4. Increase the capacity of civil society organizations, think tanks, and the media.

In addition to MASAQ, managed by DPK Consulting, there is a complementary USAID program managed by the American Bar Association which focuses on judicial ethics, alternative dispute resolution (primarily court-annexed mediation), and legal education. Both the MASAQ and the ABA programs involve civil society. For example, MASAQ includes a small grants program for NGOs and ABA is supporting a Jordan-based regional NGO devoted to increased respect for the rule of law. The Department of State's regional activities under the Middle East Partnership Initiative include some limited rule of law activities. However, bilateral United States Government cooperation in this sector is concentrated in the USAID program.

With regard to other donors, the European Union has a newly inaugurated project to strengthen the institutional capacities in the Ministry of Justice and a small UN Office of Drug Control program has been working to improve the capacity of the public prosecutor, with an emphasis on juvenile justice. These are relatively small projects and do not pose serious issues of conflict or overlap. The EU project offers opportunities for reinforcing collaboration because it includes capacity strengthening for Ministry personnel, possibly including Ministry employees who work as administrative staff in the courts

The principal strategic concern about the MASAQ program is the shifting policy environment. The JUST initiative had been seen as a departure from a policy environment that the USAID August 2003 Democracy and Governance Assessment had concluded was not conducive to judicial independence and effectiveness. With the changes to the strategic framework articulated in section I of this report, MASAQ has had to adapt to an environment in which opportunities for progress arise within a context

of particular interests of counterpart institutions. This has given rise to a need to find the appropriate balance between trying to integrate related elements (such as sound court management practices, automation and training) and responding to requests that may give inadequate attention to one or another of the related issues.

A critical challenge will occur with the anticipated extension of automation to courts throughout the country, a high priority for the Minister of Justice. It will be important that there be high confidence in the basic software (MIZAN), that processes and procedures be adapted so as to make efficient use of the new technology, that appropriate infrastructure be in place, that the concerned personnel be in place and receive timely training, and that stakeholders learn how to use and appreciate the capabilities of the automated systems and the data and reports they produce. If these factors are in place there will be a good chance that this major undertaking will proceed smoothly and full fill the high expectations that exist. If, instead, there is a narrow focus on getting hardware and software installed, the effort will be undermined and its sustainability placed at risk.

Like all challenges, this one presents an opportunity. In this case, it is the opportunity to use the strong interest in rapid automation as an incentive to obtain progress on the other necessary elements of a coherent program, including broad policy issues of judicial independence and effectiveness. The credibility of the reform initiative, not to mention that of USAID and DPK Consulting, will be affected by how the various stakeholders respond to this challenge and whether they seize the opportunity.

The management of the MASAQ program gives reason for optimism that the strategic challenge described above can be overcome. The component leaders within the MASAQ staff who deal with court management, ministry of justice capacities, Judicial Institute training, information technology and civil society communicate well and are alert to interdependent and cross-cutting issues of common concern. Chief of Party Wally Kuencer and the Deputy COP, Diala Khamra, encourage this collaborative approach, including through regular staff meetings. In my interviews with MASAQ staff members I was impressed by how often they would raise the connections between their respective areas of responsibility and their interest in contributing to a more effective and independent judicial system.

## Enhancing the Ministry of Justice Capacity

MASAQ is responding to specific needs of the Ministry of Justice that are important to its leadership role. These are information technology and public communications. Through MASAQ, well qualified advisers are working within the Ministry in these specialized fields. Positive news coverage of justice-related events (such as the recent conference to launch a regional NGO) can be attributed to the communications expert provided to the Ministry through MASAQ. The IT expert has organized the Ministry's directorate and is preparing it to meet the myriad challenges of extending automation to additional courts. In 2004 MASAQ had contemplated providing support for the specific purpose of coordinating the implementation of JUST, and the Justice Ministry adopted an administrative rule to set up a unit within the Ministry for this purpose. However, the rule has not been implemented. This idea might be revisited should a reinvigorated JUST strategy for 2007-2009 develop in a promising way. More general institutional strengthening of the Ministry of Justice is the subject of the European Union program.

A specific subcomponent is to upgrade Ministry of Justice capacity to assess performance and establish baseline data, including through public opinion surveys. MASAQ has organized five surveys that provide useful information of the perceptions of various stakeholders. The Ministry of Justice has not yet shown a readiness to take responsibility for continuing this practice. However, it is

hoped that capacity building for the Ministry will be possible in the context of an additional survey planned for 2007.

This component also includes a task of trying to broaden the base of support for JUST with judges and other stakeholders and to facilitate a shared vision. There is a practice in Jordan of forming committees of judges to study various issues and that practice has been followed in the context of this program. Several committees of judges have provided sounding boards on issues such as case management and records management. The impact of the dialogue with judges is limited by the weak capacity of the Judicial Council to support the committees (see section 3.3.4 on judicial independence, below). Nevertheless, the committees provide some opportunity to involve the judges directly in the evolution of reforms and modernization efforts being led by the Ministry.

## **Upgrading Judicial Performance and Enhancing Judicial Independence**

### Automation

Automation is at the heart of this component. It is an area where impressive progress has been achieved in conciliation, first instance and appellate courts, as well as in prosecutor, attorney general, notary public, and execution departments and in the Judicial Institute. The MIZAN software is now stable and operating satisfactorily to support a significant portion of cases in the Jordanian courts. Expansion plans are proceeding and an improved architecture is being prepared that will improve and simplify its operation and maintenance. There is high confidence that the expansion to additional courts will proceed without difficulty and this confidence is borne out by experience to date.

There is less of a sense of shared purpose in the relationship between the Ministry of Justice and MASAQ than might be expected, given the priority that the Ministry is giving to court automation. Principal issues include delays that the Ministry has faced in equipment purchases, facility preparation, and building up of technical staff. USAID contemplates a new memorandum of understanding with the Ministry in advance of any expansion of the automation effort to nation-wide scope in order to clarify responsibilities and firm up commitment. In this regard, the ongoing upgrading of the Ministry's IT directorate, supported by MASAQ under Component 1, is a good example of internal coordination in program implementation.

The Ministry's implementation difficulties give rise to concern about how to assure the sustainability of the automation initiative. As the value of automated systems gains appreciation in the justice sector, it can be expected that there will be growing demand for maintaining those systems. The current initiative to consolidate multiple databases and software into a more streamlined version of MIZAN will ease the burden of system maintenance. Nevertheless, some maintenance will be needed, and the present intention is to rely on the Ministry of Justice to provide that service. Yet, the weakness of the Ministry's IT directorate and its slowness in taking administrative steps necessary for the automation of the courts are worrisome. USAID and MASAQ should consider the options and develop a sustainability plan for this major, high visibility investment in court modernization.

### Court Administration and Management

A related activity under this component is court administration and management. Through its resident staff and with support from exceptional short-term consultants (my visit overlapped with consultancies by Ernie Friesen and Rick Callanan), impressive results are being achieved. The pilot case management office in the First Instance Court in Amman seems likely to win approval for replication. A case numbering and records management system should be adopted soon, integrated into the MIZAN software, and included in the expansion of the automation program. Physical improvements and re-engineering of workflow have considerably improved efforts in court registries and in a major notary public office. Again, the replication and sustainability of these achievements depend to a great extent on the will and ability of the Ministry of Justice.

The initial pilot case management effort has been limited to the civil case docket. Case management has proven to be successful in the criminal courts in the United States and elsewhere as a way to achieve more timely justice and to reduce the incidence of extended pre-trial detention. Plans for replication of the case management approach in Jordan should include consideration of its possible value in the criminal courts. Measurable improvement in Jordan's performance on this issue, beyond its intrinsic merit, would demonstrate (to the Millennium Challenge Corporation and the United Nations Human Rights Council, for example) Jordan's commitment to ruling justly and protecting human rights. I understand that implementing this application of case management falls outside the scope of the current contract.

This component includes a task described in terms of reducing demand for the courts. This appears to mean reducing burdens on the courts. In part, this task seems to reflect the assumption that increased access to alternative dispute resolution mechanisms will reduce workload for the courts. In fact, experience shows that while ADR can achieve more timely resolutions it does not diminish the volume of cases. Rather, access to ADR expands services to the public, including to those who would be unlikely to take their disputes to the formal courts. A related factor is that, although some judges are very busy, the workload of the courts is not very heavy from a statistical point. Jordanian judges, on average, handle only about 150 cases per year, well below the caseload in most countries.

To the extent that the intention of the contract is to reduce the burden of unnecessary litigation, experience elsewhere shows that efficient case management is the single most effective technique. Apart from this, one of the most promising approaches has not yet been implemented, but is benefiting from research now underway. About 15 percent of cases involve fines for regulatory violations, most of which are uncontested. Permitting these fines to be paid through an administrative rather than a judicial procedure would increase efficiency, reduce costs and inconvenience to the public, and significantly reduce caseload. MASAQ is investigating this possibility. Another significant contributor to case volume is collection actions on checks. The ABA program is conducting research into this issue. There would appear to be room for coordination between MASAQ and ABA in developing a legislative proposal that could move administrative fines and bad check cases from the courts to administrative remedies.

### Judicial Education

A very important activity under this component is to improve the quality of education for judges and other judicial system personnel. MASAQ has again proven successful with the technique of assigning an expert to a Jordanian institution. In this case, Qais Jabareen has brought energy and skill to the task of creating in the Judicial Institute of Jordan a coherent plan for its two-year preparatory course for aspiring judges and its calendar of continuing education for judges and other judicial personnel. The training program, among other things, includes themes of ethics and mediation which reinforce the objectives of the ABA program in those areas. Building the capacity of the JIJ remains a challenge, but a good beginning has been made. It would seem desirable to pursue a dialogue with the European Union about use of the JIJ for some of the capacity building training it intends to conduct.

### Judicial Independence

Judicial independence is a complex and difficult issue in Jordan. The concept is enshrined in the national Constitution (Article 97), legislation (2001 Law on Independence of the Judiciary), and declared policy (JUST). Yet, in practice, the judiciary is dependent on the Ministry of Justice for its budget and administration; the Minister of Justice plays a major role in the Judicial Council; and

judges serve in key roles on the staff of the Ministry. The Judicial Council has no significant resources, professional staff or institutional capacity. The Minister has expressed willingness to detail employees to the Judicial Council, but the Chief Justice insists that he should be able to employ Judicial Council staff directly.

The original USAID contract with DPK Consulting included an objective on judicial independence. This was superseded by the ABA program, which included some similar themes. Then, a 2005 amendment re-introduced judicial independence into the MASAQ work program. The amendment provided for international consultancies and workshops in support of financial and administrative independence of the Judicial Council. Those activities were carried out in 2005. However, they proved to be premature. The resistance was too entrenched and the Judicial Council too ill prepared for movement to take place.

A more capable and engaged Judicial Council that broadened the base of participation in the reform agenda could give a tremendous boost to the sustainable impact of the MASAQ program and, more generally, the successful implementation of the JUST strategy. In addition to giving the judges more voice in the evolution of policy, an institutional structure and capacity could help to diminish inconsistencies that occur whenever changes occur in leadership positions. For these reasons, a renewed effort to strengthen the Council should be considered.

Rather than pursue Judicial Council capacity building as a prelude to a transfer of administrative and fiscal authority and resources from the Ministry to the Council, any such effort should try to avoid controversy by concentrating on capacities to perform effectively agreed functions of the Council. During my call on the Chief Inspector, a respected jurist who enjoys the confidence of both the Minister of Justice and the Chief Justice, he volunteered the opinion that such an approach, including the involvement of committees of judges, could be acceptable to all concerned. The implication was that he would be an advocate for Judicial Council strengthening. The desire to institutionalize the functions of the Judicial Council was echoed by other judges with whom I met. This possibility warrants further investigation.

A particular activity for the Judicial Council that might be broadly acceptable would be to organize committees of judges to examine possible legal impediments to implementing proposed reforms and to recommend solutions. This could serve a very practical purpose. MASAQ has begun to identify some areas where legislative or regulatory changes would be helpful. For example, a number of experts believe the law requires handwritten records of some judicial actions (although other experts dispute this interpretation). Continuing to maintain handwritten entries that duplicate data entered into an automated system obviously would diminish the benefits of automation. A committee of judges under the auspices of the Judicial Council could provide authoritative clarification on this issue and, if necessary, propose remedial legislation. Analysis of this nature could justify the creation of a technically qualified secretariat in the Judicial Council, strengthening the capacity of that institution. Making recommendations on legislation concerning the administration of justice falls squarely within the responsibilities of the Judicial Council under the 2001 Judicial Independence Law.

### **Strengthening Ministry of Justice Inspection and Monitoring Capacity**

MASAQ has provided assistance to the Ministry of Justice to improve the criteria for inspections, enhance their substantive content, and assign weighted numerical values to qualities observed. In addition, the staff of the Inspections Department participates in training offered by the Judicial Institute, which MASAQ supports.

The Chief Inspector would like to have more help. However, there is some risk that work in this area could place USAID and MASAQ in a difficult position because they would be strengthening the

capacity of the Ministry to perform functions the judiciary believes should be managed by the Judicial Council.

### **Increase Capacity of Civil Society Organizations**

MASAQ has recently approved small grants for five Jordanian NGOs. Two additional grants are expected to be approved within a few weeks. This will consume the entire budget allocated for this activity. The grant program has attracted some favourable publicity. For example, a Jordan Times article on June 30 provided details about the low participation of women in the legal profession, especially as judges. (Only 35 of Jordan's 630 judges are women.) The article highlighted the work of the Jordanian National Forum for Women to raise awareness, and noted the support for this work from MASAQ.

MASAQ is not currently working with the media, but plans to organize some media events during the remaining life of the contract. Perhaps the most significant media-related activities at present are support for the Ministry of Justice Communications Directorate and the development of the recently adopted MASAQ communications strategy.

It is widely expected that USAID will soon initiate a separate program to encourage civil society participation in Jordan. It seems unlikely that this component of MASAQ will expand beyond the current small grants program. During my visit I had the opportunity to review the small grant submissions and meet with one of the grantees (Partners Jordan Center for Civic Collaboration, which is promoting informal mediation with Jordanian youth throughout the country). It appears that the modest encouragement of civil society through the small grants is worthwhile, but that a broader effort by USAID would be desirable, including outreach to the business community and professional associations in addition to NGOs.

#### **4. CONCLUSIONS AND RECOMMENDATIONS**

The following summarizes conclusions and recommendations expressed throughout the body of this report.

Jordan's Judicial Upgrade Strategy (JUST) serves as a coherent policy framework for a wide array of actions intended to modernize and strengthen the judicial system. However, the view of that policy framework in general and its elements in particular is shifting and a revision and reinvigoration of JUST for the period 2007-2009 could provide a valuable opportunity to encourage broader participation in the reform process and to help institutionalize it. The qualities of participation and institutionalization are essential to sustainable accomplishment through the JUST strategy.

Encouragement and support of JUST 2007-2009 should involve policy dialogue between the United States and Jordanian governments as well as programmatic actions through MASAQ. The agenda should include:

- A strategic planning and JUST implementation and monitoring unit in the Ministry of Justice to coordinate inputs from stakeholders, performance by responsible entities, reporting to senior officials, and public communication.
- A network of stakeholders in JUST, including operators and users of the justice system, to be consulted by the Ministry of Justice on a regular basis.
- A strengthened institutional capacity for the Judicial Council to organize contributions from the judiciary, including recommendations for needed legislation, in the ongoing evolution and implementation of JUST.
- Timely action by the Ministry of Justice on measures necessary to the implementation, institutionalization and sustainability of court automation and process re-engineering in the courts, as well as the continuing legal education and preparatory training programs of the Judicial Institute. (In particular, this includes the selection, training and career development of court administrators, information technology technicians, and other administrative and professional personnel.)
- A sustainability plan to assure that the benefits of automation, re-engineering, institutional strengthening and human resource development will be of continuing value and able to adapt to changing needs and new challenges.

Ideally, the results of dialogue on these issues should find expression in JUST. A logical outline for organizing JUST goals, objectives and a template for an annual action plans are set out at Annex C. MASAQ should facilitate the elaboration of a locally owned strategy and action plan to develop and operationalize the outline. MASAQ support should include help in any revisions to the outline, the initial identification of implementing measures, review and refinement of those measures through a stakeholder workshop, and broad communication of the resulting JUST for 2007-2009, possibly including a judicial conference.

MASAQ is a well managed, effective program that is helping Jordan to achieve demonstrable progress in improving the nation's justice system. The combination of knowledge, resources, technology, and management capacity that MASAQ represents should help Jordan to institutionalize the reform process, while helping Jordanians to implement and make known specific improvements in the administration of justice. In carrying out its current program, MASAQ should try to assure that individual priority actions (including court automation) reflect systematic consideration of the

normative framework, administrative processes, institutional capacity, human resource development, and sustainable financing.

In future programming, the following should be considered for increased MASAQ attention within the JUST framework:

- A strategic planning and JUST implementation and monitoring unit in the Ministry of Justice, as described above, with a related consultation network;
- Institutional strengthening of the Judicial Council, including capacity to analyze possible legal impediments to the effectiveness of reforms;
- Expanded case management to include civil and criminal cases in major courts;
- Re-engineering of the processes for execution of judgments;
- Expanded use of administrative remedies;
- Increased capacity of the Judicial Institute of Jordan to maintain a sustainable training and continuing education program, including for judicial candidates, sitting judges, and professional staff.

## **APPENDICES**

### **Appendix A: Terms of Reference**

**Consultant Name:** DPK Senior Counsel James Michel June 24-July 7, 2006

#### **Background**

Under the leadership of King Abdullah, the Government of Jordan has undertaken a broad program of reform to advance democratic governance. The justice system has been a particular focus of this reform program, with a Judicial Upgrade Strategy for 2004-2006 (JUST) inaugurated in 2003 by the Ministry of Justice and endorsed in 2005 in the National Agenda. JUST is intended to improve the performance of the judicial system while maintaining its independence. The strategy involves eight reform pillars: independence of the judiciary; standards of the judicial system; judicial system efficiency; human resources development and training; information management and computerization; inspection and monitoring; infrastructure and facilities; and strengthening of the Ministry of Justice.

USAID support for Jordanian reforms to strengthen the rule of law is a main pillar of the Agency's democracy and governance strategy. One initiative, being implemented by DPK Consulting, is intended to enhance the capacity of the Ministry of Justice, upgrade judicial performance, improve judicial independence, and engage civil society and the media in justice-related public policy issues and support women's empowerment. The USAID contract with DPK Consulting calls for coordination with a related initiative, being implemented by ABA-CEELI, intended to strengthen professional ethics and foster alternative dispute resolution mechanisms. The USAID program also calls for coordination with relevant US Government regional programs and programs of other donors and multilateral organizations.

Both the Jordanian reform strategy and the current USAID program of support are well into the second year of operation. This is an appropriate time for stocktaking and consideration of appropriate next steps. The Government of Jordan has requested assistance from DPK Consulting in conducting a review of progress made under JUST and priorities for continued efforts during 2007-2009. USAID has endorsed this request.

At the same time, it is the practice of DPK Consulting to conduct periodic reviews of programs and activities for which it has implementation responsibility in order to identify and be better able to apply lessons learned about effective international cooperation and sound management practices. A review of the Jordan program is anticipated in the DPK annual plan for 2007 within the context of the firm's strategic plan.

Mr. Michel's visit thus provides an opportunity to respond to the request of the Ministry of Justice and also to conduct a review of DPK performance in Jordan under the existing program. Objectives, methodology and deliverables for this visit are set out below.

#### **Objectives:**

- Participate in and support a review by the Ministry of Justice of the implementation of JUST in 2004-2006 and related initial planning as to priorities for 2007-2009 and how the strategy will be developed and implemented for that period.
- Conduct a general review of the performance by DPK under its contract with USAID with a view to identifying lessons learned and resulting opportunities for increased effectiveness of program implementation in Jordan and elsewhere. (This general review will include a review with the Chief of Party of the management of the DPK project office in Jordan, including strategic focus, organization and staffing, operational efficiency, financial management, and communication and reporting.)

### Terms of Reference

#### Methodology and Work Program:

1. Conduct background research and interviews in Washington regarding JUST, the USAID rule of law program and DPK performance (4 days).
2. Conduct more specific research and interviews in Amman and consult with USAID, ABA-CEELI and others in order to provide preliminary recommendations to the Ministry of Justice for its consideration in formulating strategic priorities and implementing measures for JUST in 2007-2009 (6 days).
3. In the course of research, interviews and consultations (and within the days allotted to those activities), assess the performance of DPK with respect to contract implementation and management.
4. Prepare and participate in a workshop for dialogue involving the Ministry of Justice and other stakeholders selected by the Ministry with respect to the preliminary recommendations about the future development, priorities and implementation of JUST (3 days).
5. In light of findings of the workshop, prepare revised recommendations for consideration by the Ministry in the formulation of strategic objectives and implementing measures for JUST in 2007-2009 (1 day).
6. Provide departure briefings to the DPK Chief of Party, USAID and, if desired, the Ministry of Justice (1 day).
7. Prepare a written report to DPK, to be provided in draft to the DPK Chief of Party for comment within 3 days after departure from Jordan and submitted to DPK within 3 days after receipt of any corrections, comments or suggestions from the DPK Chief of Party (3 days).

#### Deliverables

1. Draft recommendations and other materials for Ministry of Justice workshop.
2. Revised recommendations for Ministry of Justice following the workshop.
3. Oral report on departure.
4. Written report to DPK Consulting.

#### Miscellaneous

1. Exit interview with Chief of Party
2. Written Trip Report (due upon departure, template will be provided) and follow-on plans, if any.
3. All deliverables will be prepared in English with subsequent translation by DPK, if necessary. All deliverables will be provided in Microsoft office products (e.g. Word, Excel, PowerPoint, etc.), Visio, and/or MS Project

#### Time line

- Begin on or about: 24 June 2006
- Duration: 20 days (including 2 days travel)

**Appendix B: Persons Interviewed**

Anne Aarnes, Mission Director, USAID Jordan.  
Juan E. Nicolás Adán, Program Coordination Consultant, European Union-Jordan Association Agreement Program.  
Judge Thayer Adwan, Ministry of Justice.  
Kathryn Ainsworth, Chief of Party, American Bar Association Jordan Program.  
Judge Mustafa Assaf, Chief Inspector, Ministry of Justice.  
Judge Ihasan Barkat, Court of Appeals of Amman.  
Alex Berg, Office of Democracy and Governance, USAID.  
Angela Conway, Director, Middle East Programs, American Bar Association.  
Jeanette Davis, Bureau of Democracy, Human Rights and Labor, Department of State.  
Ali Dmour, Secretary General, Ministry of Justice.  
Mara Galaty, Democracy and Governance Officer, USAID Jordan.  
Michele Greenstein, Bureau of International Narcotics and Law Enforcement, Department of State.  
Judge Mansour Al Hadidi, Director General, Judicial Institute of Jordan.  
Raja Hiyari, Training Manager, Partners Jordan.  
Judge Ammar Hussein, Ministry of Justice.  
Judge Nawal Jawahri, First Instance Court of Jordan.  
George Kara'a, MASAQ Project Manager, USAID Jordan.  
Joshua Kaufman, Office of Democracy and Governance, USAID.  
Jennifer Weinman Lanz, Deputy Director, Middle East Programs, American Bar Association.  
Peter Malnak, Director, Social Development and Governance, USAID Jordan.  
Alicia Mandaville, Millennium Challenge Corporation.  
Judge Ali Masri, JUST Coordinator, Ministry of Justice.  
Judge Muntaha Qdaeh, First Instance Court of Amman.  
Judge, Mohammed Al Raqqad, President, Court of Cassation.  
Matthew Rosenstock, Bureau of Near East Affairs, Department of State.  
Laura Schultz, Middle East Partnership Initiative, Department of State.  
Dr. Abed Shakhanbeh, Minister of Justice.  
Oliver Wilcox, Bureau for Asia and the Near East, USAID

## Appendix C: JUST Strategic Goals and Objectives (2007-2009)

### BROAD VISION OF JUST STRATEGIC GOALS AND OBJECTIVES 2007-2009

[Note: For each objective, the identification of implementing actions will take into account the need to consider the normative framework, institutional capacity, operational processes, physical infrastructure, human resources, monitoring and enforcement, and communications aspects.]

#### **GOAL 1: ACHIEVE AND MAINTAIN A SOUND LEGISLATIVE AND REGULATORY FRAMEWORK FOR INDEPENDENCE, INTEGRITY, EFFICIENCY AND EFFECTIVENESS OF THE JUDICIAL SYSTEM**

##### *Objectives for Goal 1*

- 1.A. Legislation to establish standards for independent judicial decisions and ethical conduct of judges, administrative staff, and other judicial personnel.
- 1.B. Legislation that will provide needed authority to streamline processes and procedures and reduce unnecessary burdens on the courts, litigants or the public.
- 1.C. Legislation that will facilitate access to the courts and other institutions that resolve disputes (including expanded jurisdiction for administrative disposition and alternative dispute resolution).
- 1.D. Legislation to define the role of the Judicial Council.
- 1.E. Coherent implementing rules and regulations to assure the effective implementation of legislation to improve the judicial system.

#### **GOAL 2: ACHIEVE AND MAINTAIN EFFICIENT AND EFFECTIVE PERFORMANCE OF THE JUDICIAL SYSTEM.**

##### *Objectives for Goal 2*

- 2.A. Streamlined and standardized processes and procedures in the judicial system, including effective case management.
- 2.B. Streamlined processes and procedures of specific court departments, such as public prosecutor, notary, execution of judgments, civil public attorney, technical office, and notifications.
- 2.C. A strengthened Judicial Council with the capacity to carry out its functions.
- 2.D. Upgraded court infrastructure (facilities, furnishings and equipment) for efficient access and operations.

- 2.E. **Increased use of administrative procedures and alternative dispute resolution to expand access to justice and relieve burdens on the courts.**

**GOAL 3: ACHIEVE AND MAINTAIN A COMPREHENSIVE AUTOMATION OF COURT PROCEEDINGS, RECORDS, AND STATISTICS**

*Objectives for Goal 3*

- 3.A. **Integration of software systems into a single system for use by all courts in order to facilitate uniform practice and generate comparable data.**
- 3.B. **Linkage of all courts in a national computer network.**
- 3.C. **Judges and administrative staff trained in the operation of automated systems and the productive use of data and reports generated by those systems.**

**GOAL 4. STRENGTHEN THE CAPACITY OF THE MINISTRY OF JUSTICE**

*Objectives for Goal 4*

- 4.A. **Ministry of Justice capacity to support the achievement of the goals of JUST, including the communication of progress, strategic planning, financial and human resource management, and use of information technology.**
- 4.B. **Ministry of Justice capacity for inspection and monitoring of the performance of the judicial system.**
- 4.C. **Ministry of Justice capacity to strengthen its relations with counterpart ministries in other countries in order to participate in and benefit from the shaping of international best practices.**

**GOAL 5: ACHIEVE AND MAINTAIN ADHERENCE TO HIGH STANDARDS OF INDEPENDENCE AND INTEGRITY IN THE JUDICIAL SYSTEM**

*Objectives for Goal 5*

- 5.A. **Effective implementation of established standards for judicial independence and integrity, including training, dissemination of information, and monitoring of performance.**
- 5.B. **A forum for judges to foster dialogue, sharing of knowledge and participation in furtherance of independence and integrity.**
- 5.C. **A continuous dialogue with civil society regarding standards of integrity, transparency, independence and accountability in the judicial system.**

**GOAL 6: ACHIEVE AND MAINTAIN A STRONG HUMAN RESOURCE CADRE TO OPERATE THE JUDICIAL SYSTEM**

*Objectives for Goal 6*

- 6.A. A strengthened Judicial Institute of Jordan with the capacity to prepare new judges and provide continuing education to judges (including specialized training in priority areas), as well as other judicial officials and administrative staff.**
- 6.B. Development of a broad range of competent support personnel, especially professional court managers and quality control specialists, and their assignment to courts where workload is significant.**
- 6.C. A new, modern facility for the Judicial Institute of Jordan.**