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Administration of Justice Support Project
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Pilot Court Assessment
March 1997
David C. Steelman
USAID/Cairo

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NATIONAL CENTER FOR STATE COURTS

MEMORANDUM

TO Ernest C Friesen

FROM David C Steelman

DATE March 2, 1997

CC Ronald J Taylor, AOJS project staff members, Linda R Caviness, and Madeleine Crohn

RE AOJS Task 5 Assessment of Pilot Courts of First Instance in Ismailia and North Cairo

Enclosed is my brief assessment of the pilot courts for this project. The report is based on five days at the Ismailia court and four days at the North Cairo court. It offers general findings and observations and then it suggests what should be our priorities in the development of a strategic plan for delay reduction improvement efforts in the pilot courts.

This report is supported by several appendices. Appendix A summarizes findings from my review of a small preliminary sample of civil and commercial cases from the Ismailia court. Appendix B is a summary of the interviews with some of the full and partial circuit judges of the Ismailia and North Cairo courts by Madame Shamsnoor Abdul Aziz and me (with the assistance of Madame Nadia Magdy Shaheen as my interpreter), asking questions within the general parameters of a predetermined interview outline. Appendices C and D are summaries of my visits to observe case processing in the pilot courts in Ismailia and North Cairo. Finally, Appendix E presents the highlights of my interview with Counselor Omar Hafeez at the National Center for Judicial Studies in Cairo.

For more detailed information than is provided in this report and its appendices you should peruse my notes supporting the preparation of Appendices A-D. (They are the notes that I prepared during the site visits to the two pilot courts or that I otherwise made in the preparation of this report.) Madame Shamsnoor has a parallel set of notes from the site visits, and she should be consulted to augment my notes and correct any errors that may be present (whether in this report, its appendices, or my notes) as a result of my failure to appreciate all of the nuances of practice and procedure in the pilot courts.

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ADMINISTRATION OF JUSTICE SUPPORT PROJECT
FOR THE EGYPTIAN MINISTRY OF JUSTICE

*TASK 5 AUTOMATION AND STREAMLINING
OF PROCEDURES AT PILOT COURTS*

PILOT COURT ASSESSMENT

David C Steelman
National Center for State Courts
March 2, 1997

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PILOT COURT ASSESSMENT

David C Steelman

March 2, 1997

This report is prepared under the Administration of Justice Support (AOJS) Project being carried out by Amideast with the National Center for State Courts (NCSC) for the Egyptian Ministry of Justice with funding support from USAID. It is an assessment of civil and commercial case processing in two pilot courts - the Ismailia Court of First Instance and the North Cairo Court of First Instance -- to provide a basis for the preparation of a strategic plan to automate and streamline procedures in those two courts. It is based on visits to the courts from February 13 through 25, 1997.

I Brief Overview of the Court Process for Civil and Commercial Cases

The progress of a civil or commercial case from filing through conclusion can be outlined in the following major steps: (1) presentation of a writ of summons to the court with payment of estimated fees by the plaintiff and court completion of official filing steps; (2) service of the writ of summons and acknowledgment by the defendant; (3) party appearance at the first court hearing; (4) second and subsequent court hearings (a) to review the status of efforts by experts to develop a factual basis for decision or (b) to take other steps to resolve issues raised by the parties; (5) final hearing and preparation of a final decision by the court, and (6) execution of final fee claims and the court's decision. Much of the discussion in this report addresses details associated with these steps.

II General Findings and Observations

Of a more general nature than any specific comments to be offered about case processing and caseload management are several broad observations about the Egyptian court process in general. While these are offered on the basis of visits to courts in Ismailia and North Cairo, they may be equally applicable to Egyptian trial courts all over the country.

- A visitor's first impression of the trial courts is of the court facilities themselves. While the chambers of the chief justice of a court of first instance are appointed in a fashion that reflects his high status and importance, the hallways and offices of court staff members are crowded, poorly lit, and poorly maintained. Moreover, the staff offices have not been located in the court building to facilitate quick and easy transaction of court business by lawyers or litigants. The process of case initiation is one in which the lawyer or litigant must carry documents up and down back and

forth, from one court office to another without the benefit of signs or a printed guide to the process of filing papers

- Judges other than the chief justice of a trial court do not have offices in the courthouse, and the legal references available to them at the courthouse are limited. After they have come to court on hearing days they take case papers home with them and prepare handwritten decisions at home with the assistance of reference materials in their personal possession.
- To the extent that the AOJS effort is a "technology project" it is critical to note the current level of technology in the North Cairo and Ismailia pilot courts: a pen or pencil is the highest level of technology employed for data entry and information management by almost all court employees. Microfilming was engrafted on the traditional approach to case processing in about 1993. Telephones are not extensively used. There are few typewriters used by court staff and they are manual typewriters. Facsimile and photocopy machines are not part of day-to-day operations in the court process. The North Cairo court has two desktop computers, and the Ismailia court has one, but access to these computers is limited.
- Since it involves a civil law court procedure as opposed to a common law procedure the process in the trial courts is much more oriented toward written documents than the oral nature of the American adversarial process. Every communication must be in writing. Every transfer of a document from one office of a court to another must be accompanied by signatures in record books of the person delivering a document and of the person receiving it.
- The civil law tradition also emphasizes statutes and regulations rather than case law *stare decisis* and court procedural innovation. Court procedures designed for an earlier, less complicated and less busy era contribute to the absence of authoritative guidance for trial judges on the expeditious treatment of procedural issues in cases. Rather than having an ongoing process of revising and streamlining procedural rules and building on decisional law to build precedents for the handling of problems that would be dealt with in American courts through such procedures as those for default judgments, dismissals with prejudice and management of the discovery process, Egyptian judges appear to confront the same procedural problems over and over again without means to build improved procedures.
- The process of deciding civil and commercial cases in the pilot courts *appears* to be painfully delayed. There is little information beyond the anecdotal perceptions of judges, court staff and others about the actual pace of litigation and there are no agreed measures of what constitutes a 'delayed' case.
- In the absence of carefully developed sample data on factors affecting the progress of actual cases from initiation to conclusion, it appears that the greatest source of delay in civil and commercial cases is the process associated with *expert opinions*, between the first court hearing in a case and the final hearing after which a final decision is made. This is the part of the process analogous to the discovery process in American trial courts, in which information is gathered to assess the assertions of the parties and form a basis for determination of the *facts* in a dispute to which the law is to be applied by the court.

- Other important sources of delay in the court process include (a) service of writs of summons and acknowledgment of service by defendants (b) preparation of interim and final decisions handwritten by judges and typed on manual typewriters by court staff, (c) collection of fees and expenses for services in the court process and (d) difficulties in the substantive execution of judgments
- With a manual record keeping system overwhelmed by case volume there is an elaborate control system of record books and signature requirements for every time a step is taken and a case file or document changes hands. This control system serves to impede the prompt completion of tasks associated with case processing. The court automation process ought to be designed to ensure that such complexities are sharply diminished while still giving participants in the system comfort that they can show accomplishment of the tasks for which they are individually responsible
- The classic problem of a manual system -- redundant entry of case information - is here in spades and would be dramatically addressed by an automated system
- In addition to being manual the case-processing system is also one in which a large number of documents and case file entries are *handwritten*. Illegible handwriting by clerks, judges and others is a universal complaint
- Line staff members of the courts are paid low salaries in terms of the cost of living in Cairo or Ismailia. This must have an effect on the level of talent and commitment among employees that the courts are able to attract and maintain. It clearly appears to create a situation in which employees are tempted to supplement their meager official income by accepting bribes to accelerate or retard the pace of events in cases before the courts
- A streamlined automated process in which redundant and time consuming activities of staff members in a court and expert office would be carried out by computer is clearly necessary and feasible to design. Its implementation would have to be undertaken with great care, however to overcome the variety of reasons why all the participants in the "local legal culture" associated with the civil and commercial case process might be wedded to the enormous inefficiencies of the current process
- It can fairly be said that there is *no* case management in the two pilot courts, beyond efforts to see that each individual step in case processing is carefully done and documented. Under the crush of maintaining daily operations in a manual and largely handwritten system, there is no application to individual cases or categories of cases of agreed expectations about the pace of litigation
- In a broader sense, it appears that the problems of judges and court staff members in the processing and determination of cases are viewed largely as the difficulties faced by individual judges or individual court staff members or offices in individual cases. They do not seem to be defined as *management problems* to be addressed by leaders of the court system or the Ministry of Justice in concert with other institutional participants in the court process. This means that there has *not* been any process in an individual court of identifying problems, gathering factual information to go beyond anecdotal perceptions of those problems, identifying and weighing the advantages and disadvantages of possible solutions, overcoming institutional barriers to change, implementing and assessing new approaches and refining such approaches in light of assessment results

III Suggested Priorities for Strategic Plan Development

The primary task to be accomplished in this report is to suggest court administration and delay reduction priorities for the development of a strategic plan that will guide subsequent efforts under the AOJS project to automate and streamline procedures in the pilot courts. Recommended here are issues that should be addressed in the preparation of the strategic plan. They are organized in three tiers: high-priority issues, other issues for project attention, and important issues beyond the scope of this project. The elements offered here are based on an analysis of the findings and observations presented in Appendices A-E.

A High-Priority Issues

Of all the steps that might be included in the strategic plan for further activities under the AOJS project, there are six issues that deserve primary attention. The greater portion of AOJS project resources for court administration and delay reduction should be devoted to addressing problems and defining solutions in these areas:

- *In the internal operations and activities of the AOJS office absolutely highest priority must be given to integrating the perspectives of court administration, judicial education and court automation professionals if the AOJS project is to have any chance of success.*

The AOJS project has been designed to bring three different kinds of expertise -- court administration, judicial education and court automation -- to bear on the problem of delay in civil and commercial cases in Egyptian courts of first instance. There is a risk, however, that the administration, education and automation professionals in the AOJS office will either (a) perceive one another's activities to be totally independent of one another, (b) be in constant conflict over which of them is to have primacy in the operation of the project, or (most likely) (c) both (a) and (b). Unless a positive and creature face can be established and maintained in the tensions among the different professional perspectives, this difficult project will have no chance for success.

Proposal documents for the AOJS project have discussed reengineering of the manual processes in the pilot courts as a step to be taken *before* computerization is introduced. This should *not* mean, however, that reengineering of the process be undertaken separately by court administration professionals without continuing interaction with court automation and judicial education professionals. The reengineering of the manual process should be done in a fully cooperative effort between the administration and automation professionals, and the changes in the local legal culture of the pilot courts cannot succeed unless these professionals work closely with education professionals to bring about not only skills enhancement in the pilot courts, but also a change in the perspectives of judges and court staff about the nature of their work responsibilities.

From a court administration and delay reduction perspective, the February 1997 visit to the pilot courts yields the following suggestions about priorities for court automation. Satisfaction of the Ministry of Justice may call for the installation of

computers on the front desks of civil department court staff members who deal with lawyers and litigants at case initiation if only to index cases as they are received. An early success can be achieved by providing desktop computers for typists in the court typing pool who assist judges with preparation of decisions. As the next step, computerized access to the database of legal research information should be available for judges both at home and more easily at computer information centers in each full and partial circuit court building. A fourth step should be to automate the process of collecting and managing court fee receipts and disbursements. The fifth step should be to introduce computers to assist the reengineered manual case process linking the indexing done at case initiation with other steps in the management of case-processing information all the way through to the end of the process. The case information system should be linked to the system for tracking case-related cash receipts and disbursements. At this point it would be operationally possible to activate the management accountability and control mechanisms designed to take advantage of the information management capacity of the computer system.

The effective introduction of the court administrative and court automation improvements would necessarily depend on educational activities with judges and court staff members. These would address at least three areas. First there should be educational activities involving development of the skills necessary to operate the computer technology. Second, there should be workshops on the modified and reengineered case processing approaches designed under the AOJS project. Finally, there should be workshops on caseload management and management accountability in general.

- *Reliable baseline data on the pace of civil and commercial litigation in the pilot courts should be prepared on the basis of random representative 500-case samples from each of the courts.*

See Appendix A for a proposed data-gathering form. The results from an analysis of the sample case data will help AOJS project staff identify case-processing areas needing greatest attention, and it will provide a basis for measuring improvements under the project. Based on the baseline data, civil and commercial *time standards* should be developed with Ministry and court leaders.

- *Early steps should be taken to reduce the amount of circuit judges' real and perceived workload.*

This will help to overcome judges' likely resistance to any recommendations under our project that they take steps they will view as adding more work for them (even if we are confident that such steps will ultimately reduce their workload). It will also help to prevent the buildup of cases awaiting decision by judges that might happen if the process of preparing cases for decision were streamlined without any efforts to reduce workload pressures on judges. One of the steps to reduce judges' decisional workloads could well be the development of broader means to use *alternative dispute resolution (ADR)*; another would be to have a 'master calendar judge' take responsibility to oversee steps in the

preparation of cases for final decision (See the final suggestion listed below under high-priority issues)

- *High attention should be given to the preparation of expert reports*

The objectives of this effort should be to promote enhanced timeliness quality and accountability in the expert report preparation process. Consideration should be given to such alternative *structural* approaches as (a) bringing expert offices directly under the authority of courts, (b) breaking the monopoly of expert offices by broadening the pool of experts available in cases, by certifying professors private engineers and others with special technical knowledge to be experts (outside expert offices) to whom cases may be referred, (c) adopting an American-style practice of having the parties take responsibility for provision of expert opinions (with adequate protection of the interests of litigants without means to engage well-qualified experts) (d) creating a framework of understanding between courts and expert offices through the Ministry of Justice, by which there can be more effective communications shared expectations and guidelines for timeliness and quality, and means for such expectations and guidelines to be enforced and (e) the creation of improved incentives and circumstances for experts to complete opinions in a more timely and more satisfactory fashion

Further consideration should be given to such *procedural* considerations as (a) the grounds on which parties can request expert reports (b) the manner in which judge decisions referring cases for expert opinions can be crafted so that the issues to be addressed are stated with sufficient clarity to forestall misunderstanding by assigned experts, objections by parties, or rejection of reports by judges and (c) applicable sanctions against lawyers or litigants who abuse the expert referral process for purposes of delay. Finally, attention should be given to the development of such *case management* mechanisms as (a) procedures for judges to screen cases to identify those that can be decided without referral to experts, (b) the establishment of time standards for completion of expert reports, based on consensus between the leaders of the court system and the expert offices, (c) provision of information for courts and expert office leaders to monitor the age and status of cases under expert report preparation and (d) the development of effective rewards and sanctions to be applied in individual cases

- *Management of the service of process must be enhanced*

This should involve a multifaceted approach. Consideration should be given to the need for *structural changes* either by making process servers something other than court employees, or by making them quasi-law enforcement officers like sheriffs who serve process for American courts. If service offices remain in the judiciary then issues in *personnel management* having to do with the qualifications selection assignment and training of people as process servers must be addressed

A critical matter is *financial reimbursement* of costs for process servers both on a per-document-served basis (now set at the totally inadequate rate of one piastre per document) and for transportation costs associated with making service (costs of public transportation now exceed the monthly salaries of process servers and they are currently

reimbursed at a level set far below actual costs) A related issue has to do with whether *bicycles or motorcycles* should be provided for process servers so that they need not proceed on foot or use transportation provided at the expense of litigants in the absence of servers' ability to afford the cost of public transportation

A long-term question that may be beyond solution under this project is the inadequacy of salaries for servers which leads some of them to resort to *bribes* from civil plaintiffs and defendants as a way to augment their incomes Only when such underlying matters are addressed can some degree of *management accountability* be introduced through performance criteria, provision of information for monitoring performance and exercise of appropriate rewards and sanctions

- *AOJS efforts should show clear evidence of continuity with prior efforts to address issues of civil justice delay in the Egyptian trial courts In particular the results of the January 1996 Civil Justice Conference held by the Ministry of Justice should be closely reviewed and where appropriate made an important element of the AOJS project plan*

At least four matters of major significance appear to follow from this First the creation of a *civil prosecutor* position to oversee the management of cases under preparation for decision should be supported by AOJS project leaders and the role and responsibilities of civil prosecutors and any staff under them should be defined under the project Second attention should be given to the manner in which cases are handled by judges It might be desirable for the civil prosecutor to work for (or himself serve as) a 'master calendar judge' or 'assignment judge' who shepherds cases along through the stages of preparing them for final decision only then assigning them to circuit judges for final hearings and preparation of final decisions

Third, the development of *differentiated case management* procedures should be part of the overall plan for improved case management Finally the role of *ADR* (and especially *mediation*) should be clarified and developed as a further feature of the overall plan for improved case management

B Other Issues for AOJS Project Attention

While only a small number of matters can be assigned highest priority there is a larger number of other matters deserving attention The following 15 matters seem to be consistent with project objectives and within the range of what must be addressed during the term of the project

- *AOJS project leaders should work as necessary with Ministry of Justice and court leaders to address practical barriers to the introduction of American notions of delay reduction and court administration that may be alien to the traditional civil law environment in which the Egyptian pilot courts operate*

See Arab Republic of Egypt Ministry of Justice *Report on Recommended Solutions to Backlog and Delay in the Civil Courts* (June 11 1996)

Interviews to date with judges in the pilot courts suggest that delay reduction efforts under the AOJS project should probably address the apparent absence of (or disinclination to use) procedures or practices for entry of default judgments dismissing cases with prejudice in appropriate circumstances or dealing efficiently with third-party claims, which aid case management in American courts. An American judge or lawyer is stunned to learn that Egyptian judges in the pilot courts appear to have much less easy access to the most current statutory and decisional law than would be permissible in the American court process. But the American experience with court initiated delay reduction and management improvement arises from a common law tradition quite different from Egypt's civil law tradition, which gives primacy to codes and legislation as sources of law over any independent efforts by the judiciary to determine the law and procedures to be applied in the courts.

The enlistment by the Egyptian Ministry of Justice of American expertise in court administration, judicial education and court automation is undoubtedly part of Egypt's broader engagement in a world economy with North American, European Union, Middle Eastern and Pacific Rim commercial interests (among others) at play. Yet at the local level there may be considerable judge and staff resistance to hints of aggressive American style judge management of the case process in the pilot courts. Such resistance, born of a judicial passivity and stoicism arising in the context of a developing country with a civil law tradition, may present significant barriers to the easy harmonization of American and Egyptian styles under the AOJS project.

- *The multitude of manual steps associated with the initiation of a case, including both case processing and payment of estimated fees, should be dramatically simplified and streamlined.*

See Appendices C and D and notes on which their preparation is based. Improvement of the case initiation process will have little impact on delay reduction because it involves no more than a day in the life of a civil or commercial case. Since it will greatly reduce citizen bewilderment with the court process, however, it is an important public relations issue for the Ministry of Justice. For this reason, it is one of the improvements that must be made in this project.

- *The court staffing and staff organization implications of streamlining and automating case-processing in the pilot courts must be carefully addressed as part of planning for implementation of improvements and coordinated with the Ministry of Justice.*

The two pilot courts are now overstuffed with poorly paid personnel, many of whom are engaged in "busy work" that is redundant and ultimately unproductive. Streamlining the manual case process and then automating it will predictably have a dramatic effect on staffing levels in the pilot courts. Some court staff can profitably be reassigned to other tasks to enhance service to the public and the speed of the court process, as well as to provide administrative assistance to judges. Other staff may have to

See Peter De Cruz, *Comparative Law in a Changing World* (London: Cavendish Publishing, 1993) p 257.

be reassigned to other positions by the Ministry of Justice however AOJS project staff must seek to minimize the potentially negative effect of staffing changes on the success of court improvement implementation efforts

The reengineering and automation effort must also confront the manner in which court staff members are organized to do their work. Along with streamlined and automated procedures, and with changes in court staffing levels it will be necessary to redesign the formal lines of supervision and responsibility under an organization chart for court staff members. It will be necessary as well to change the informal lines of influence and communication that currently exist as part of the court process

- *Special care should be exercised to demonstrate conclusively to court staff members surviving changes in staffing levels as a result of the project that the streamlining and simplification of case processing in preparation for computerization will not expose them to the risk of being criticized for losing control of case documents or case files*

Court staff members in the pilot courts currently maintain an almost countless number of record books to write and rewrite information about cases they handle. Every time a document or case file changes hands the person receiving it must sign for it in a book kept by the person who has delivered the document or file. Such a multitude of bureaucratic devices has evidently arisen to help staff members protect themselves from blame if papers or files are misplaced in the old and totally manual process developed in an era before there was such a high volume of work in the courts. To the extent that streamlining and computerization eliminate the need for multiple record books and the multitude of steps involved in recording each and every movement of documents or a case file court staff members may fear that they will be exposed to blame for problems unless they continue to maintain the cumbersome old process in parallel to the streamlined process. This fear must be recognized and alleviated

- *As early as possible AOJS project staff members should hold an initial caseflow management workshop with the judges of the pilot courts with a follow-up workshop after they have developed the outlines of the case management procedures to be tested in the pilot courts*

In Egypt as much as in America judge commitment is an essential element for the successful implementation of improved case processing in the pilot courts. Modifying the American model for caseflow management workshops to be more suited to the experience in the pilot courts, AOJS project staff members should introduce judges to caseflow management at a relatively early point in the project. Later when more refined ideas are to be implemented, those ideas should be reviewed with the judges and revised as necessary to help improve the prospects for successful implementation

- *Management workshops should also be held with court staff members in the pilot courts on the streamlined case processing procedures developed under the AOJS project*

Successful implementation of the improvement initiative under this project will fail without the involvement, understanding and commitment of the court personnel who must carry out the day-to-day details of processing cases. Professor Dale LeFever, an experienced faculty member for court administration workshops in America, often observes that, "If they don't know the reason why then the price is always too high." In other words, court staff members in the pilot courts will not be prepared to accept the changes suggested in the AOJS project unless and until they understand the purpose of such changes and no longer feel personally threatened by them.

- *Serious attention should be given to determining what additional resources can be provided to assist judges with the completion of their work.*

There are several kinds of additional resources that might be provided to assist judges and make the court process more expeditious for civil and commercial cases. First, *staff support* might be made available -- for example, law graduates to undertake such tasks as making computerized inquiries for judges of the growing database of regulatory law and court decisions and preparing a draft recitation of documents at the beginning of each decision. Second, *research resources* might be provided for the judges, particularly at the courts where they are assigned. Third, *facilities* might be provided in the form of office space at the courthouse. Finally, *computer resources* would be helpful not only at home but also at the courthouse, not only for research but also to assist decision preparation.

- *Attention should be given to improved scheduling of cases for court hearings.*

Cases are currently assigned dates for first or subsequent court hearings without any apparent coordination between the head of the civil department, the clerk of the circuit to which a case has been assigned, or the judges of that circuit. Nor does there appear to be any conceptual or operational framework for the application of realistic oversight practices that might take into consideration how many cases are ready for final decision, how many involve no more than the submission of documents, and how many cases might have to be further postponed (for example, because of service problems or not-yet-completed expert reports).

- *One of the early steps in the computerization effort in the pilot courts should be the automation of decision preparation by judges.*

Preparation of judges' decisions is another area crying for automation. Judges write decisions by hand, and they are then typed on old manual typewriters. They must be entirely retyped if judges find typing errors. Where the AOJS project apparently contemplates providing about 80 computers for home use by judges, they should be able to use them for access to a legal research database. It is likely, however, that many judges will not at first want to type their own decisions. At least two steps should be taken to ease the work of judges who prefer to continue handwriting their decisions. First, computerization should assist them in preparing the often lengthy recitation of all the documents in a case with which they must begin a decision. Second, court typists who

now prepare decisions on old manual typewriters (at least two generations older than IBM 'Electric II' typewriters) should be trained to prepare them on desktop computers. This should permit them to avoid retyping each decision in its entirety if judges reviewing typed drafts find errors.

- *In each of the pilot courts there should be signs and other information giving citizens unfamiliar with the courts directions on what to do and where to go to file papers*

A pamphlet or handout sheet describing the steps to follow (including where to go in the courthouse for each step) should be prepared for distribution to citizens. Public information personnel should be assigned by the court to help citizens find their way especially those unable to read and understand the directions pamphlet or handout sheet. (If a number of court staff people were needed to serve as public information people this would be one of the ways to reallocate staff people who might be displaced by the streamlining under this project of the case filing process.)

- *The physical structure and organization of case file folders in the pilot courts should be improved*

File folders in both pilot courts are made of flimsy paper and case documents are stuck loosely and haphazardly in each folder making it difficult for a judge to review a case file quickly (and, incidentally for a data-gatherer to pick out relevant case information). It would be an enormous improvement to have case file folders made of sturdier paper with case documents fastened in reverse chronological order in each file.

- *Forms management improvements should be introduced for documents in civil and commercial cases in the pilot courts*

Many case documents are handwritten, in no standard formats and on different sized paper. A dramatic improvement would result from a requirement that documents be on the same sized paper follow a prescribed format and be typed whenever possible. Even handwritten and free-form documents might be regularized if the court called for each to be of a standard size and have a heading with the case number and the names of the parties.

- *The chief justice and the sitting full and partial circuit judges in the pilot courts should require (a) that each file have a register of actions form (b) that all relevant case events be recorded chronologically on the register of actions in the case file and only there, and (c) that all entries be typed or legibly handwritten*

Many case files appear to have a register of actions form and yet there is no enforcement of a requirement that all case events be routinely recorded in chronological order on that form. Instead, some information is on the form some is scribbled haphazardly on the outside or inside of the file folder and some may not be available anywhere in the file.

- *AOJS project staff members should make recommendations to the leaders of the pilot courts on how the physical layout of civil department cash receipt and microfilming offices in the court buildings might be reordered to make the process of case initiation less confusing and Byzantine in its complexity*

Site visits to the courts in Ismailia and North Cairo let the AOJS project team members observe a case initiation process in each court in which a lawyer or litigant must walk upstairs downstairs down hallways and back to places visited before. If it is not possible to make case initiation a one stop shopping sort of event it should be possible to reduce the distance a lawyer or litigant must cover within a courthouse for the mere purpose of filing a case.

- *An assessment should be made of the impact of a recent decree by the Ministry of Justice that all documents relevant to a case must be included with the writ of summons when a case is initiated*

One of the common complaints of judges court staff members and experts is that lawyers or litigants have not provided all the relevant documents needed for the preparation of an expert report or the court's decision on a case. It appears that the Ministry of Justice has sought to address this problem by promulgating a requirement that all relevant documents be included when a writ of summons is to be filed and served. The AOJS project staff should monitor the implementation of this requirement in the pilot courts to see if its objectives are achieved.

C Important Issues Beyond the Immediate Scope of the AOJS Project

The AOJS project and the court administration matters that it addresses do not exist in a vacuum. In fact, many of the problems that the project seeks to address are the result of social cultural and political factors far broader than what could ever be resolved in a project such as this. Identified here are seven such factors. Because they bear on the project's potential for success, however, it is important that project leaders specifically raise such issues with Ministry of Justice officials, explain how high expectations for the project are unrealistic without long term attention to them, and give assistance where possible to the initiation of Ministry efforts to address them.

- *The culture of bribes and corruption that touches many points in the court processing of cases must ultimately be addressed by government officials in the Ministry of Justice and elsewhere*

In the March 2, 1997 issue of *The Egyptian Gazette* an article indicates that ikramiyah (the Arabic euphemism for a bribe) is a common word among government employees at all levels and that the problem it reflects is present in all government agencies. Within the narrow focus of the court process for civil and commercial cases attention must be given to the likelihood that most process servers, experts, circuit clerks and other court staff members dealing with attorneys and citizens cannot subsist on what

they are now paid and must resort either to second jobs or acceptance of bribes in order to make ends meet

- *Ministry of Justice and court leaders should be urged to initiate the process of simplifying and streamlining regulatory provisions governing court procedure in civil and commercial cases based on our recommendations and on the experience of the pilot courts*

Judges report that the procedures themselves are a source of delay and that they provide too many loopholes that can be abused by lawyers and litigants. AOJS project staff experience in the more detailed study of civil and criminal case processing leading to the design and implementation of improved approaches to case processing and caseload management should permit the identification of areas in which the laws themselves might be changed

- *Ministry of Justice officials should be urged to work with the Egyptian People's Assembly to revise and simplify the apparently complex set of regulatory provisions governing court fees for civil and commercial cases*

An important part of the computerization process will no doubt be to provide automated assistance for the fee estimation and collection function. The extensive processes around fees may in part be a means to find something to do for all of the staff members in the courts. They seem also to be a result however of the extensive piecemeal legislative enactments over the years that govern court fees

- *Ministry of Justice officials should be urged to take steps toward upgrading the quality of law practice before the trial courts*

This might involve such long term steps as (a) generally upgrading the quality of legal education, (b) making computer literacy and computerized legal research a prominent part of legal education (c) requiring that law graduates pass the equivalent of a bar examination as a prerequisite to practicing before the courts (d) developing and enforcing criteria for legal ethics with sanctions leading up to disbarment for unethical litigation practices, and (e) providing trial court practice education on such issues as the drafting of filings

- *Suggestions should be offered to the Ministry of Justice on steps that would be appropriate to limit the number of lower court cases that are appealed*

About 80% of all decisions in the partial circuit courts are appealed for de novo review in the full circuit courts. Almost all of these cases result in decisions affirming those reached in the limited-jurisdiction trial courts

- *Some attention must be given to the systemic relations between the trial courts and the appellate courts since expeditious of the court process in the trial courts will*

predictably have some impact on the workload of the appellate courts (if only in terms of attorney efforts to resist the changes proposed in the trial courts under the AOJS project)

A large percentage of decisions by the courts of first instance are appealed to the courts of appeal and ultimately to the Court of Cassation. In the effort to improve the appellate court phase, there are at least three areas in which attention should be given. First, close scrutiny should be given to the grounds on which appeals of right can be taken from the courts of first instance, since this appears to be an area in which attorneys can abuse the process for purposes of delay. (See Appendix B and associated notes.) Second, there are obvious opportunities to recommend enhanced management of the appellate process to reduce delay. Finally, enhancement of the manner in which civil and commercial cases are managed in the courts of first instance should be viewed as a means to enhance the credibility of those forums and promote the finality of decisions made at that level of the court system.

- *Suggestions should be offered on practical steps that might be taken to improve the making of the record of in-court proceedings before full and partial circuit judges*

The record of court proceedings is now handwritten by circuit clerks under the supervision of the judges and the record made in this fashion is often inadequate. The simplest solution to the problem would be to designate a separate person other than the clerk to have the sole function of making a record in good handwriting of courtroom proceedings. (Since many of the actual events on a court date appear to involve no more than the submission of documents, another simple option would be to designate the kinds of events for which no formal record need be made.)

Beyond these alternatives, choices from the panoply of court reporting techniques available in American courts might be considered. The most high tech solutions such as computer-aided transcription or videotape are probably less cost effective than such other alternatives as sound recording. The application of any solutions from the American experience, however, would necessitate the development of means to manage such court reporting issues as timely transcription of the record.

APPENDIX A

RESULTS FROM CASE FILE AND CASE SAMPLE REVIEW

On February 20, 1997, a case sample data-gathering form prepared by the NCSC consultant (see Figure A) was translated into Arabic and used as a guide for the gathering of data from a preliminary sample of 15 civil and commercial cases disposed by the Ismailia Court of First Instance. Table A offers a summary of the results of an analysis of the data from that sample of cases.

The purpose of this preliminary data-gathering effort was threefold. First, it was an opportunity for AOJS project staff members to learn about the potential practical problems that would have to be addressed in carrying out a full scale data gathering effort for a representative sample of cases from both the Ismailia and North Cairo pilot courts. Second, it represented an opportunity to gain an initial glimpse at what might be found by going beyond the anecdotal perceptions of observers and participants in the court process. Finally, it represented an initial, low-visibility effort to introduce Ismailia court leaders and staff members assisting the data-gathering effort to a more management-oriented conceptual approach to their day-to-day case responsibilities.

Observations from AOJS project staff review of case files

AOJS project staff members took the opportunity during their visit to look at some of the Ismailia case files. In addition, they had photocopies made of two case files, and the photocopied files are available for review in the AOJS office. The case file review yields some simple recommendations for improvement of file management:

- File folders are made of flimsy paper and case documents are stuck loosely and haphazardly in each folder, making it difficult for a judge to review a case file quickly (and, incidentally, for a data-gatherer to pick out relevant case information). It would be an enormous improvement to have case file folders made of sturdier paper with case documents fastened in reverse chronological order in each file.
- Many case documents are handwritten, in no standard formats and on different sized paper. A dramatic improvement would result from a requirement that documents be on the same sized paper, follow a prescribed format and be typed whenever possible. Even handwritten and free-form documents might be regularized if the court called for each to be of a standard size and have a heading with the case number and the names of the parties.
- Many case files appear to have a register of actions form and yet there is no enforcement of a requirement that all case events be routinely recorded in chronological order on that form. Instead, some information is on the form, some is scribbled haphazardly on the outside or inside of the file folder, and some may not be available anywhere in the file. An obvious recommendation is for the chief judge and the sitting circuit judges to require (a) that each file have a register of actions form.

(b) that all relevant case events be recorded chronologically on the register of actions in the case file, and only there, and (c) that all entries be typed or legibly handwritten

The file review also offers some thoughts that are relevant to any AOJS project plans to gather data from a full representative sample of cases in the two pilot courts

- If interns are assigned to do data-gathering it will be necessary for them to be closely schooled by Madame Shamsnoor on how to navigate through case files and other court records to gather the information needed for our sample of cases
- It will probably be necessary for AOJS data gatherers to be assisted by civil department court staff members in the collection of data as has been suggested by civil department officials in Ismailia
- In any event, it will be necessary to devise efficient means to verify that correct information has been recorded in the data-gathering forms employed to collect baseline data in the pilot courts. Review of data forms two or three times a week as they are completed should be one means to spot any incongruities or problems. In addition, spot checking of actual files and court records should be a means for those supervising the data-gathering effort to ensure a level of comfort with the information being collected

Highlights from Analysis of Preliminary Ismailia Sample Data

Care must be exercised to avoid drawing any broad firm or final generalizations from a reading of the sample case data presented in Table A. The preliminary sample was small and the cases may not have been selected in a totally random fashion. Moreover, the experience in a large urban court such as that in North Cairo (serving 8 million people) is likely to be very different from that of the much smaller Ismailia court. Yet the results of the small preliminary sample do offer some interesting tentative suggestions about case processing and the pace of civil and commercial litigation in the Ismailia court

- At least in Ismailia, commercial cases appear usually have fewer case events and take less time to disposition than many civil cases. (In the large urban environment of North Cairo it can be anticipated that there would be a greater incidence of more difficult commercial cases.)
- Initial service and acknowledgment of a writ of summons appears to be accomplished quickly in many cases
- Elapsed time to first court hearing appears to be much shorter for commercial cases than for general civil cases, in which it may not happen until two months or more (almost 10 months in one sample civil case) after filing of the writ of summons
- No case in the preliminary sample reached final decision at the first scheduled court hearing. Cases needed an overall average (mean) of about 10 court hearing dates after the initial hearing (12 for civil cases and 6½ for commercial cases)
- Based on the observations by Madame Shamsnoor and the AOJS interviews with judges (see Appendix B) and court staff members it should come as no surprise that completion of expert reports was the most common reason for having cases postponed for subsequent court hearings after the initial hearings. Postponements for service or

party review were much less common. It appears that there might often be postponements for other reasons however.

- Average (mean) elapsed time from writ of summons to final decision for all of the cases in the preliminary sample was slightly over 20 months (about two years for civil cases and 15-16 months for commercial cases). Four of nine cases in the preliminary civil sample took over three years.
- Time needed for completion of expert reports was a significant source of delay in the completion of preliminary sample cases. Average (mean) time from the date of first court referral of a case to the expert office to the date on which the last expert report was received was over 8 months for all cases referred (over a year for civil cases and about 3½ months for commercial cases).
- The data from the preliminary sample suggest however that expert report preparation was hardly the only significant source of delay. For example average (mean) time from the date on which the last expert report in a case was received by the court and the date of the final hearing in a case (about 9 months for all cases) was almost a month *longer* in the preliminary sample cases than that needed for the completion of expert reports. The average expert report preparation time for civil cases (about a year) was longer than the average time to final hearing (about 10 months) however in civil cases. In the preliminary sample of commercial cases the average time from receipt of the last expert report to the final hearing date (over 7 months) was twice the average time needed (3½ months) for completion of expert reports.
- Another significant portion of the delay in completion of preliminary sample cases was the time from the date of the first court hearing in a case to the date on which it was referred for an expert report. For all sample cases with such referrals the average (mean) elapsed time was about 6½ months (over 7 months for civil cases and almost 6 months for commercial cases).

The gathering of data from a full representative random sample of cases in the pilot courts will obviously be important to establish baseline data against which to measure progress in the implementation of improvement efforts in those courts. In addition however the results from analysis of the preliminary sample data from Ismailia suggest that the full sample should provide critical guidance on identifying the specific areas in which caseload management efforts should be focused.

ADMINISTRATION OF JUSTICE SUPPORT PROJECT
FIGURE A PROPOSED CASE SAMPLE DATA-GATHERING FORM
(ENGLISH LANGUAGE VERSION)

1 DATA CONTROL NUMBER	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> - <input type="text"/>	
2 CASE NUMBER	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/>	3 CASE TYPE <input type="text"/>
4 DATE WRIT OF SUMMONS FILED	<input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/>	
5 DATE OF SERVICE	<input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/>	
6 DATE OF FIRST COURT HEARING	<input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/>	
7 NUMBER OF TIMES POSTPONED	<input type="text"/> <input type="text"/>	
8 POSTPONEMENT REASONS 8-1 SERVICE	<input type="text"/> <input type="text"/>	
8-2 EXPERT <input type="text"/> <input type="text"/>	8-3 PARTY REVIEW <input type="text"/> <input type="text"/>	
8-4 UNSPECIFIED <input type="text"/> <input type="text"/>	8-5 OTHER (specify) <input type="text"/> <input type="text"/>	

9 NUMBER OF TIMES REFERRED TO EXPERT OFFICE	<input type="text"/> <input type="text"/>
10 DATE FIRST REFERRED TO EXPERT OFFICE	<input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/>
11 DATE LAST EXPERT REPORT RECEIVED	<input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/>
12 DATE OF FINAL HEARING	<input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/>
13 DATE OF FINAL DECISION	<input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/>
14 DATE CASE RECEIVED BY FINAL FEE OFFICE	<input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/>
15 DATE CASE READY FOR EXECUTION	<input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/>
16 DATE CASE SENT TO ARCHIVE	<input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/>
17 DATE OF DATA GATHERING	<input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/>
18 COMMENTS	

ADMINISTRATION OF JUSTICE SUPPORT PROJECT INSTRUCTIONS FOR CASE SAMPLE DATA-GATHERING FORM

- 1 This is an internal document control number to be assigned by the AOJS project staff. Each data-gathering form should have its own unique data control number. The last digit in the data control number indicates the court in which the data form was completed. Enter a "1" to indicate the North Cairo court and a "2" to indicate the Ismailia court.
- 2 The case number is that assigned the case by the court. It permits AOJS project staff to refer back from the data form to actual case records in the court. The last two digits are for the year in which the case was filed.
- 3 Enter a number code for the type of case. For example: "1" = general civil, "2" = commercial, "3" = tax, "4" = labor, "5" = family, "6" = signature confirmation. [These code numbers should be augmented or corrected as necessary before data gathering begins.]
- 4 Enter the date on which the document initiating the case was filed. The first two digits should be the *day* of filing. The next two digits should be the *month* of filing. The last two digits should be the *year* of filing.
- 5 Enter date of service in the same format as #4.
- 6 Enter date of first court hearing in the same format as #4.
- 7 Count the number of times the case has been postponed for subsequent hearing dates and enter the total.
- 8 Determine the reasons for postponements shown in case records. If a case has been postponed 4 times because of service problems, for example, enter "4" in the boxes for reason 8-1. If it has been postponed 3 times waiting for an expert opinion, enter "3" in the boxes for reason 8-2. If there are other reasons, enter the number in the boxes for reason 8-5 and write what those reasons were on the line under #8 on the data form.
- 9 Indicate the number of separate times (from 0 to 9) that the court has referred the case to the expert office.
- 10 Enter date of first referral to the expert office in the same format as #4.
- 11 Enter date the last expert report was received by the court in the same format as #4.
- 12 Enter date of final court hearing in the same format as #4.
- 13 Enter date of the court's final decision in the case in the same format as #4.
- 14 Enter date on which the case file was received by the office for final fees in the same format as #4.
- 15 Enter date the case was ready for execution in the same format as #4.
- 16 Enter date the case was sent to the court archive in the same format as #4.
- 17 Enter date on which the data form was completed in the same format as #4. This date is particularly important for the analysis of sample cases that were not yet closed at the date of data-gathering, since it will be necessary to calculate how much time such cases had been pending up to the time the case data were gathered.
- 18 Add any comments that will help us understand what has happened in a case.

**TABLE A ISMAILIA CIVIL CASE PRELIMINARY SAMPLE
CASE DATA SUMMARY**

A-1 DATA FOR ALL PRELIMINARY SAMPLE CASES					
Description	N	Lowest	Median	Mean	Highest
1 Days from Writ of Summons to First Service Acknowledgment	14	4	65	12.93	44
2 Days from Writ to Date of First Court Hearing	15	8	21	52.33	292
3 No Times Case Postponed for Subsequent Hearings	15	2	10	9.87	24
4 No Times Postponed for Specific Reasons					
a Service		0	1	1.07	3
b Expert		0	7	5.40	11
c Party Review		0	1	1.07	3
d Other		0	0	2.13	14
5 Days from Writ to Date of First Referral to Expert Office	11	111	181	233.18	505
6 Days from First Hearing Date to Date of First Expert Referral	11	90	139	204.82	446
7 Days from First Expert Referral to Receipt of Last Expert Report	11	61	137	253.82	610
8 Days from Writ to Date of Final Hearing	15	153	543	613.13	1202
9 Days from Receipt of Last Expert Report to Final Hearing Date	12	47	113	202.58	653
10 Days from Writ to Date of Final Decision	15	165	574	626.47	1202
11 Days from Final Hearing Date to Final Decision Date	15	0	7	13.33	49
12 Days from Final Decision Date to Date Received by Final Fee Office	14	20	28	27.36	36
13 Days from Writ to Date Case File Received by Court Archive	6	264	467	524.17	933

SOURCE Analysis of data forms completed February 20 1997
N is the number of sample cases for which data are presented

A-2 DATA FOR PRELIMINARY SAMPLE OF CIVIL CASES					
Description	N	Lowest	Median	Mean	Highest
1 Days from Writ of Summons to First Service Acknowledgment	8	4	11	16 88	44
2 Days from Writ to Date of First Court Hearing	9	17	59	75 44	292
3 No Times Case Postponed for Subsequent Hearings	9	3	11	12 11	24
4 No Times Case Postponed for Specific Reasons	9				
a Service		0	1	1 67	3
b Expert		0	7	6 11	11
c Party Review		0	1	1 22	3
d Other		0	0	3 11	14
5 Days from Writ to Date of First Referral to Expert Office	6	153	170	265 33	505
6 Days from First Hearing Date to Date of First Expert Referral	6	98	158 5	228 17	446
7 Days from First Expert Referral to Receipt of Last Expert Report	6	123	406 5	372 83	610
8 Days from Writ to Date of Final Hearing	9	153	525	706 89	1202
9 Days from Receipt of Last Expert Report to Final Hearing Date	8	47	141 5	190 14	595
10 Days from Writ to Date of Final Decision	9	165	574	728 00	1202
11 Days from Final Hearing Date to Final Decision Date	9	0	14	21 11	49
12 Days from Final Decision Date to Date Received by Final Fee Office	8	20	24 5	25 75	33
13 Days from Writ to Date Case File Received by Court Archive	9	N/Av	N/Av	N/Av	N/Av

SOURCE Analysis of data forms completed February 20 1997
 N is the number of sample cases for which data are presented

A-3 DATA FOR PRELIMINARY SAMPLE OF COMMERCIAL CASES					
Description	N	Lowest	Median	Mean	Highest
1 Days from Writ of Summons to First Service Acknowledgment	6	4	55	9.83	33
2 Days from Writ to Date of First Court Hearing	6	8	205	17.67	21
3 No. Times Case Postponed for Subsequent Hearings	6	2	8.5	6.50	12
4 Reasons for Postponement					
a Service		0	0	0.17	1
b Expert		0	4	4.33	9
c Party Review		0	1	0.83	1
d Other		0	0	0.67	4
5 Days from Writ to Date of First Referral to Expert Office	5	111	154	194.60	336
6 Days from First Hearing Date to Date of First Expert Referral	5	90	139	176.80	316
7 Days from First Expert Referral to Delivery of Last Expert Report	5	61	76	111.00	238
8 Days from Writ to Date of Final Hearing	6	207	420	472.50	877
9 Days from Last Expert Report to Final Hearing Date	5	81	1425	220.00	653
10 Days from Writ to Date of Final Decision	6	217	420	474.17	877
11 Days from Final Hearing Date to Final Decision Date	6	0	0	1.67	10
12 Days from Final Decision Date to Date Received by Final Fee Office	6	22	305	29.50	36
13 Days from Writ to Date Case File Received by Court Archive	6	264	467	524.17	933

SOURCE: Analysis of data forms completed February 20, 1997.
 N is the number of sample cases for which data are presented.

APPENDIX B

SUMMARIES OF JUDGE INTERVIEWS

When the AOJS project team visited the courts in Ismailia and North Cairo they held interviews with full and partial circuit judges. Comments are presented below on the interviews with Ismailia judges and those with North Cairo judges. Notes from the interviews with the judges should be consulted for more detailed information.

I Caseflow Management Comments by the Chief Justice of the North Cairo Court of First Instance

The Chief Justice of the North Cairo Court of First Instance was a member of a party from the Egyptian judiciary invited under the AOJS project to visit selected locations in the United States to discuss issues of court administration, delay reduction and court automation. In a meeting with AOJS project team members on February 25, 1997 he offered several observations on caseflow management in the North Cairo court.

- An unnecessary multiplicity of procedural steps in civil cases is itself a source delay.
- When litigants object to the judge assigned to a case the court must investigate their claims. Although only one judge in all of Egyptian history has been removed from a case on the basis of such claims, the court must still undertake a time-consuming and delay-producing investigation.
- Reduction of procedures involved in preparing a case for decision might lead to a buildup of cases awaiting decision by already overloaded judges.
- The expert office is a source of delay that must be addressed. The American system of having parties take responsibility for experts might work. If the expert office cannot be abolished, private experts outside the expert office should be available for referral of cases.
- Corruption is a major problem. It arises with experts who are underpaid. It also arises with receivers appointed by courts in bankruptcy cases to prevent liquidation of assets in contemplation of litigation. Such receivers may themselves abuse their situation by selling assets for their own enrichment.

II Interviews with Ismailia Full and Partial Circuit Judges

On February 17 and 19, 1997 the AOJS project team members interviewed full circuit and partial circuit judges in Ismailia. High points of the interviews were the following:

- Judges do not look at case files before they take the bench on court hearing dates.
- Judges must go each case scheduled for hearing on a given date and they may not change the hearing schedule to deal quickly with cases that are to be referred for expert reports. Nor can they have the court accept acknowledgments of service before court hearings, parties must appear in court at the scheduled hearing date. Judges must go through each case to review the propriety of powers of attorney.

- It is not difficult for judges to keep order in the courtroom with the assistance of court employees
- In the absence of court reporters the record of court proceedings is handwritten by the circuit clerk. Judges must dictate to the clerk what to write in the minutes of a court hearing
- If a litigant asks the court to hold an investigation hearing the matter is set for a separate room after the court hearing. The investigation is conducted by a judge with just the litigants present
- If a judge believes that a defendant has willfully avoided acknowledgment of service he can fine the defendant. This is done fairly often. The court seldom proceeds without a defendant in such a circumstance where the defendant has notice in fact of the proceedings against him. If a service person intentionally reports that he has not found a defendant when he has in fact the court must punish the server. But discharge is seldom imposed
- A circuit clerk does not follow up on acknowledgment of service or completion of expert reports in the absence of a judge's order that he do so
- Some judges send only 60% of their cases to the expert office. Others send almost all cases
- If parties request that a case be referred to the expert office the judge sets a subsequent hearing date and then later decides whether the case will be referred. The judge technically has authority to expedite completion of an expert report but not in practice. He cannot order completion of a report or impose a fine for a delayed report
- If an Ismailia case is referred for an expert report to be prepared in Aswan the completed report must be sent to the central expert office in Cairo for review and approval, then sent back to Aswan before it can be sent to the court in Ismailia
- Reasons for delay in the completion of expert reports include (a) cases sent to the wrong expert, (b) too many pending cases for each expert (c) cases beyond the expertise of local Ismailia experts must be sent to Cairo for expert reports (d) court staff members may hold cases referred to the expert office until there are enough to bring to the expert office (e) expert reports may have to be sent to the central expert office in Cairo before being sent to the court and (f) parties may request a second expert report even after the first expert report is received
- Judges do not have offices in the courthouse and they prefer to take cases home for the preparation of decisions, since they have their own personal legal references at home. Judges need a computer connection to a good database of up-to date statutes and court of cassation decisions
- Judges write decisions at home by hand, then bring them to the courthouse to be typed on manual typewriters. The judge then reviews the typed opinion for errors and sends it back to be completely retyped if there are errors. Once it is done correctly he signs it
- Since judge performance is measured by the number of cases they decide each month a judge may put off deciding a case with a thick file in order to keep his numbers up by completing decisions in cases with thinner files

- Many lawyers draft requests for court action improperly so that the judge must rewrite them. Lawyers now can practice immediately after graduation from law school. They should be required to have more experience before they are allowed to practice in the full circuit court.
- The chief justice's office in Ismailia has two computers. The judges would use these computers more often for legal research except that computer operators are not legally trained and often phrase questions so poorly that computer printouts they provide the judge are often useless.

III Meeting with North Cairo Full Circuit Judges

On February 25, they then met with a number of full circuit judges from the North Cairo court of first instance. Observations of note that do not repeat those offered by Ismailia judges include the following:

- Almost all tenancy cases before a circuit judge must be referred to the expert office. A circuit with a high percentage of tenancy cases therefore refers a high percentage of its cases for expert reports.
- The problem with having parties take responsibility for experts is that a wealthy litigant can afford a better expert than a poor litigant who may be unable to afford an expert at all. A judge has the technical expertise to offset the weaknesses of a poor lawyer but not of an inadequate expert.
- Procedures now governing the court process are too easily used by lawyers to cause delay. It is too easy, for example, to file an appeal. Lawyers make use of loopholes in the law to delay cases. One abuse by lawyers is to claim that a document is forged which requires the court to refer a case to the expert office for investigation. Another abuse is to say that more documents are needed in a case. A third is to withdraw a case and then refile it. Still another abuse is to claim that a third party must be brought into a case, which requires notice to that party even if the party has no real interest in the case.
- A conference on court delay was held a few years ago. The AOJS project is useless if it leads to no more improvements than that conference.
- About 80% of all partial circuit cases are appealed de novo to the full circuit court.
- The addition of microfilm to the court process in the 1990s has simply added further steps to an antiquated set of court procedures that needs revision.
- One reason for the high workload in the full circuit courts is the low ceiling on the civil jurisdiction of the partial circuit courts.
- One of the traditional practices that should be changed is the requirement that the circuit clerk take the minutes of court proceedings by hand. The judge controls what the circuit court records, however, so that some judges are reluctant to give up control of the court record to a process less under control of the judge.

IV Interview with Nasr City Partial Circuit Judge

On February 24, 1997 the AOJS project team members interviewed the chief judge of the Nasr City partial circuit court who operates under the authority of the North Cairo chief justice. Points of interest from that interview are set forth here:

- Unlike the chief justice of a full circuit court the chief judge of the Nasr City partial circuit court is also a sitting judge who hears cases. Without an assistant his administrative responsibilities impose a considerable drain on his time in combination with the requirement to hold court hearings. A non judge administrator would be a considerable help.
- As chief judge of the partial circuit the Nasr City judge receives about ten complaints a day against servers, which he must investigate. He recently fired a server for corruption. Yet servers are poorly paid. Moreover some are law graduates who find their work depressing. Servers should be provided with transportation. Servers never steal money that they collect, although they take bribes.
- Circuit clerks in the partial circuit are overworked. They may also not be neutral during court proceedings when they are making the court record and their bias may be reflected in the record they make.
- Lawyers are poorly trained and often do not know how to conduct themselves in the courtroom. The judge must often explain the law to them.
- Because a judge writing a decision must open with a recitation of all the documents in the case, the preparation of a decision can often take 3-4 days.
- A case should not be set for first court hearing unless the plaintiff submits all documents required in the case. Any further documents should not be permitted unless the need for them could not have been foreseen.
- A computer information center with computers should be created in every courthouse. Only then should computers be made available for use by judges in their homes. It does not make sense for judges to have computers at home before there is a computer center in each court building.
- It might make sense to reorganize supervision of the service department moving it out of the authority of the court.
- Efforts to change the court system should be based on the support of younger judges who are more amenable to change than older judges.

APPENDIX C

SUMMARY OF CASE PROCESSING IN ISMAILIA COURT OF FIRST INSTANCE

From Sunday, February 16 through Thursday February 20 1997 the AOJS project team visited the court of first instance in Ismailia on the Suez Canal. This is a much less populated, more rural area than Cairo. On the first day of the visit they observed the case initiation process (continuing through work done by circuit clerks) on the next day, they observed the events in the service department and interviewed a group of trial and appellate judges, and on the third day they addressed the expert opinion process, interviewing a second judge as well. On the fourth and fifth days they reviewed a random sample of case files and had further judge interviews. This appendix offers summary reflections on case initiation and case handling by the judges and clerk of a circuit, activities of the court's service department and the process of referrals for expert opinions. For details on these activities see the notes on which this appendix is based.

I Case Initiation, Circuit Clerk Case Handling, and Decision Preparation

On Sunday, February 17 the AOJS team received a detailed explanation from leaders and staff of the court's civil department of the steps associated with the initiation of a case and its handling after assignment to a circuit.

- As in other Egyptian courts, a civil or commercial case is initiated when a lawyer or litigant brings a writ of summons to the court for filing. In Ismailia the writ is to be brought to the chief of the civil unit on the first floor of the courthouse up one flight of stairs from the ground floor.
- The chief of the civil unit estimates court fees for the filing which may vary according to the type of case and other factors. (Fees are apparently determined according to a complex set of regulatory provisions established by the legislature.) The initial estimate of court fees is subject to final determination at the conclusion of litigation. The initial estimation of fees is then reviewed by another person before the person with the writ of summons can move on to the next step in the process. Information associated with the writ and the fee estimation are recorded manually in a book by civil department staff.
- The attorney or litigant then goes to a cashier's office down the hall and around the corner on the second floor to pay the estimated fees for court costs, tax and other purposes. After the cashier issues a handwritten receipt and before the lawyer or litigant can leave the office, an auditor reviews the fee estimate and payment calling for correction of any errors. Information on the case and the fee payment are recorded manually in record books by the cashier and the auditor. The cashier's office is open from 8:30 AM to 12:30 PM. After the office is closed the cashier reconciles his records of receipts so that he and the auditor can go to the main cashier's office where cash receipts are submitted for bank deposit.
- After fee payment, the lawyer or litigant goes upstairs to the microfilm office on the second floor. (Microfilming is done nationwide by employees of a private company -- a large newspaper publisher -- under contract with the Ministry of Justice.) Case

information and information on the amount of the estimated fee payment are entered in handwritten form in record books. After showing the microfilm office staff person the writ of summons and the receipt for payment of court fees, the lawyer or litigant pays the microfilming fee estimated by the microfilm staff person.

- The lawyer or litigant then goes back downstairs to the office of the chief of the civil department. The head of the civil department assigns a case number, assigns the case to the judges of a specific circuit, and assigns a first court hearing date. This information is written by hand on the writ of summons and handwritten by court staff in record books in the office. If the lawyer or litigant wants himself to arrange for service of the writ of summons, he must go on to the next step in the process. If he allows the civil department to transmit the writ to the service office, he can go home at this point.
- The writ of summons must next be brought back upstairs to the second floor, where it is microfilmed in an office near where the microfilm fee was paid. Staff members in the microfilming office record information relevant to the case in their record books. When the writ and any documents attached to it have been microfilmed, the lawyer or litigant wanting to bring the writ and documents to the service office himself departs with the original documents, which have been stamped to indicate that they have been microfilmed. Otherwise, completion of microfilming and transmission of the original documents back to the civil department proceeds as an internal court process.
- Each day, the head of the civil department sends a staff member to collect the cases that have been microfilmed. Case files are created and indexed by civil department staff according to case type. If the lawyer or litigant initiating a case has not himself taken the writ of summons to the service department, the civil department then sends the original of the writ to the service office, having a staff member there sign for each writ received in a record book of the civil department.
- When a writ of summons is received by the court's service office from a lawyer, litigant, or the civil department, a staff member in the service office must serve the writ on the defendant and obtain the defendant's acknowledgment of service. (See II below for more details on the service process.)
- Once a case has been indexed and the writ of summons delivered to the service department, a civil department staff member brings the case file to the clerk serving the circuit to which it has been assigned. The circuit clerk signs for the file in a civil department record book to acknowledge receipt of the file and manually enters relevant case information for the case in his own record books.
- On receipt of the file for a case, the circuit clerk adds the case to the case roll or docket for the date of first court hearing assigned by the civil department. Before the actual hearing date, he sets up pages on which to record minutes of the courtroom events for each case, along with pages on which judges can make their own notes.
- At each court hearing, the circuit clerk is responsible to make minutes of what transpires in each case.
- After a court hearing date, the circuit clerk must record the reasons for postponing a case for a subsequent hearing, the file folder, and twice (once in chronological order and then again on the page for the date to which the case has been rescheduled) in an agenda book.

- One of the reasons why a case might often be postponed to a subsequent court hearing date is that it is to be referred to the expert office (See III and IV below for details)
- When a case is set for final decision that fact is recorded in a separate record book. The judge assigned a case for decision and the clerk then must then enter their signatures in the record book to signify that the judge has received the case for decision
- The judge writing the final decision takes the case file home with him for review and research using his own reference materials. He handwrites the decision beginning with a recitation of all the documents filed in the case. He then brings his draft decision to the court where the circuit clerk records its receipt and transmission to the typing pool, the head of which signs for it in one of the clerk's record books. When the decision has been typed, the judge reviews it for typing errors. Since they work with old manual typewriters, typists must redo an entire decision if there are errors. A decision is sent back to the typing pool as many times as necessary before the judge is satisfied that the typed version is correct so that he can sign it.
- When a final decision is signed by the judge, the circuit clerk keeps the decision until the winning party asks for it. Only then is it sent to be microfilmed, since the winning party must pay the microfilm fee.
- If there is no appeal and the case is not to be referred to another court because it is beyond the Ismailia court's jurisdiction, then the case file is sent to the final fee office for determination if any court fees are due beyond the estimated fees paid at case commencement. (See V below for final fee estimation and collection.) Only after the winning party pays any final fees due to the court is the case sent to court archives.

II Service of Process

On February 17, 1997, AOJS project staff members visited the court's service office. There they learned about service office practices for both civil and commercial cases. Service activities include (a) service and acknowledgment of writs of summons and other notices of court proceedings, as well as (b) executions after final decisions have been entered. The following are highlights from the notes of that visit:

A Service Office's Section for Civil Cases

- When a writ of summons and attached documents are received from either a lawyer or the court's civil department, the senior service supervisor reviews the papers to see that all required prior steps have been taken. He signs for the papers and gives them to an office person to enter relevant information in a record book.
- If service on an execution is needed, the lawyer must bring the papers 15 days before the execution date to allow the service office sufficient time to make arrangements for a police escort and to make any other necessary preparation. For service and acknowledgment of a writ of summons or notice of hearing, 24 hours before the hearing date is usually considered adequate for a local defendant in Ismailia. For parties outside the local area, 15 days are needed. Acknowledgment of service is seldom accomplished in less than three days. Service and acknowledgment can take as long as three months, however.

- If a writ is received for service and acknowledgment in another city, the service office forwards papers to the service office there and monitors return of an acknowledgment. If no return is received after 15 days, a letter is sent to inquire about the status of service efforts. Subsequent letters are sent every 15 days. If a hearing date passes without the return of an acknowledgment, the chief justice is asked to write a letter requesting that return of the acknowledgment be expedited.
- Each server has a schedule of persons to be served. A server records on his schedule whether acknowledgment of service has been made in each case. He then returns the annotated schedule to the supervisor. Writs received from the civil department and acknowledged by defendants are returned to the civil department. Those from lawyers are picked up by the lawyers themselves.
- Problems encountered every day include incomplete or inaccurate information about the person to be served. (Lawyers may sometimes withhold full information.) Another problem is that servers are inadequately reimbursed for their costs of transportation. Because the cost of public transportation is much more than they are reimbursed, they often walk to make service.
- Executions are hampered by the unavailability of police officers to provide physical security for servers. In a case ready for execution, the service office sends a letter to the police department 15 days before the scheduled execution date requesting the assistance of a police officer. The police department makes a study of the security issues involved in each specific execution. Police failure to make such a security study may delay execution indefinitely since court staff members have no authority to order execution.
- Service people are hired and assigned by the Ministry of Justice. The local supervisor cannot interview people prior to their assignment or reject any that are sent to him. Some process servers have terrible handwriting and he must assign them to tasks requiring less writing. The supervisor considers educational courses taken by servers to be inadequate.

B Service Office's Execution Section for Commercial Cases

- This section is mainly concerned with execution of court decisions in cases involving commercial paper, such as checks or bonds. A bank representative is typically the person bringing papers for execution, presenting a court decision that payment is due on a bad check or other such commercial document.
- The bank representative completes a form with relevant information and attaches the check and other documents. The senior service supervisor estimates service fees which the bank representative pays to the cashier before returning with a receipt and the documents. The senior server reviews the papers to make sure they are identical to what he was shown before, then has an office staff member enter relevant case information in a record book.
- After case information is recorded, the supervisor gives the papers to an execution server who signs a book to confirm receipt of the papers. The server makes up a schedule for each day and then goes to each judgment debtor for payment. If a judgment debtor is found and agrees to pay, the server records those facts and collects

the payment due. The server then deposits the money received in the creditor bank the next day, either in person or by mail.

- If the server is not able to find the judgment debtor because he is not at the address given to the service office, the server completes a form indicating that outcome. When he returns to the service office, a staff member there enters failure of execution for that reason in its record books.
- If the server has been given the right address but cannot make an execution because (a) the judgment debtor is not present, (b) the judgment debtor refuses to pay, or (c) the judgment debtor's place of business is closed, a different course of action is followed when the server returns to his office. A book entry is made that the judgment debtor was able but unwilling to pay the amount due. Every 15 days the service office sends a handwritten list of persons able but unwilling to pay to the Ministry of Justice, which notifies the local chamber of commerce about the failure of such people to make payment.
- Some banks ask clients to obtain a certificate that they have no outstanding unpaid judgments against them. In such a case, a client comes to the service office and asks staff there to review their records of unpaid judgments. On payment to the cashier of estimated fees due, such a review is done manually by staff of loosely-kept record books. If no outstanding unpaid judgments are found, the requested certificate is prepared. The client must bring the certificate to the court's copies office, where it is manually copied and the copy is authenticated with a court stamp. The original is kept in the copies office.
- Businesses can petition to have their names expunged from the Ministry list of those who have refused to pay judgment debts. Such a request must be filed with the court's commercial department. Before a judge decides to remove the debtor's name from the list, the court must serve notice on all known judgment creditors. The judge then holds a hearing to receive documentation of debt payments and any objections made by judgment creditors. If the debtor's petition is approved by the court, the service department is notified and annotates its records on judgment debtors. Notice of the expungement is sent to all known judgment creditors. The debtor must obtain a certificate of the expungement from the court and present it to the local chamber of commerce.
- If an execution server must collect a large amount of money, he has no security while he transports it back to the court or while he holds it for bank deposit. When they carry a large amount of money, they usually hold it in a grocery bag to disguise the value of what they have in their possession. The office has no safe in which to keep moneys overnight or over a weekend until they can be deposited in a bank.

III Court Actions on Referrals for Expert Opinions

On February 16, 1997, the AOJS project team learned about referral of cases for expert reports in the context of the case processing activities of the circuit clerks. On February 18, they learned about the activities of the civil department employee responsible for carrying case files between the court and the expert office.

- Referral of a case for an expert report is made by the court at the request of a litigant at the first or subsequent court hearing in a case
- If a case is referred for an expert report the decision to refer the case for an expert report includes the judge's directions on the questions to be answered by the expert office. The handwritten decision by the judge must be typed by the court's typing pool
- When a case is referred for an expert report the litigant requesting it must pay for expert services. If the litigant cannot pay the expert fees the judge will decide the case without an expert report. The judge estimates the expert fee and the litigant must pay the fee and bring a receipt to the circuit clerk before the clerk will transmit the case file to the expert office
- Creating a duplicate file of the case to retain in his office the clerk sends the original of the case file to the expert office. An employee of the civil department is responsible for the transmission of files to and from the expert office
- On receipt of a case file for referral to the expert office the civil department employee signs for receipt of the file and enters information about the case in two separate record books. He keeps case files at his desk until he has enough (10-15 cases) to send to the expert office. An office boy takes the files with one of the books from this office to the expert office where an employee of that office signs the book to show receipt of each file
- If a case requires a report from a person with expertise beyond that available in Ismailia the case file is sent by mail to the central expert office in Cairo for assignment to an expert there. This is done directly by the circuit clerk and the civil department without involvement of the employee who is responsible for case files to and from the local expert office
- The civil department employee who handles transmission of cases to and from the expert office does not know which specific expert has been assigned a case. He has no authority to monitor or expedite opinion completion
- Once a case is referred for an expert report follow-up depends upon the judge. If a judge wants an expert report expedited he orders the circuit clerk to prepare a letter asking for prompt delivery of the report. Without being directed to do so by a judge the circuit clerk has no authority to inquire about the status of an expert report. Judges usually do not order follow-up on expert reports unless and until they have been pending for a year or more. Letters are sent to the expert office in about 10% of all cases that have been referred
- When a letter is received from the court the expert office typically does not respond. The judge technically has the authority to impose a fine when a report is not sent after a letter has been sent requesting completion of the report. Yet fines are rarely or never imposed
- When the court receives a report back from the expert office it is sent with the case file directly to the circuit clerk, who reviews the file to ascertain whether any documents are missing that were originally in the file when it was sent to the expert office. If papers are missing the file is sent back to the expert office. If the file is complete then it is sent to the civil department employee responsible for transmission

of files to and from the expert office He records its receipt in full back from the expert office

- He then has the expert report microfilmed has a new hearing date assigned for the case and brings the case file back to the circuit clerk

IV Ismailia Expert Office Organization and Operations

The expert offices serving the courts are not under the direct authority of the courts. Instead, they are part of a separate organizational structure under the Ministry of Justice. The expert office in Ismailia is in a separate building across the courtyard from the Ismailia Court of First Instance and the building housing the Court of Appeals for cases including those appealed from the Ismailia trial court.

A Organization and Work of Managers and Experts

The expert office in Ismailia has experts in three areas - civil engineering, agriculture, and accounting. Under the general manager of the office (who must have 33 or more years' experience) are three assistant general managers (one for each area of expertise) (30-33 years' experience required), three deputy assistant general managers (over 25 years' experience required), and three section heads (each of whom must have at least 20 years' experience). While three section heads (15 or more years' experience) are authorized, the office in Ismailia currently has only one person at that level. Experts (10 or more years' experience) include three in civil engineering, three in agriculture, and nine in accounting.

The office is also authorized to have assistant experts (3 or more years' experience) and expert trainees (less than three years' experience). These positions are currently vacant, however, because salaries are inadequate to pay people for the level of expertise required.

A trainee must attend a course and pass an examination to qualify as an assistant expert. He is eligible to sit for the examination after one or two years' work as a trainee. Once a person qualifies as an assistant expert, he proceeds to higher positions simply by seniority -- by having the specified years of experience. Attainment of the position of assistant general manager or general manager, however, requires approval from the Ministry of Justice.

The general manager and the assistant general manager do no expert reports. Each deputy assistant general manager must complete a minimum of one expert report a month. Section heads must complete at least two reports a month. A senior expert must do at least three reports per month, and each expert must complete four or more. If the office had any assistant experts or trainees, they would be assigned simpler cases.

If the total number of experts in the Ismailia office were to meet these targets for minimum work performance, they would complete at least 1,200 expert reports each year -- about the amount that court records show are referred each year to the local office. Yet operational problems inhibit work completion, and low pay removes incentives for experts to perform at even the minimum levels. Because of low pay, experts must work at other jobs to meet their living expenses. Of approximately 1,200 referrals made each year, local court statistics indicate that only 265 expert reports were completed in 1996.

While they serve the judiciary, experts are organizationally not part of the courts; instead, they are general civil servants under a separate arm of the Ministry of Justice. The general manager of the expert office in Ismailia would like to be directly under the authority of the courts. His primary reason for urging this structural change is financial: he claimed that personnel in the courts make three times the salary that people at comparable levels in the expert office make.

B Expert Office Process and Problems

During the visit to the expert office the AOJS project staff members also learned what happens to a case within the expert office after it has been referred by the court

- An office boy from the court delivers case files to a secretary in the expert office. The secretary reviews each file to assure that all documents are in the file. If documents are missing, the secretary sends it back to the court where the circuit clerk is to supply the missing documents. If the file is complete the secretary signs for it and gives it an internal file control number.
- The secretary then brings the case file to the general manager of the office who directs it to the assistant general manager responsible for experts in the subject matter area for which expertise is required. If the matter is beyond the scope of expertise in the local office the case is sent back to the court to be forwarded to the central expert office in Cairo.
- The assistant general manager to whom a case is sent then assigns it to a specific expert based on experience. The details of the case assignment are recorded by hand in a record book kept by a secretary under the general manager.
- After the secretary records information about an assigned case the file is given to the expert who is to complete the report. Experts complete reports in the order they were filed in the court. The oldest case is completed first and the report for each case is completed according to the age of the case. If an older case is received after a newer one the older case takes priority over the newer one.
- The expert begins work by studying the documents in the case file. The court decision referring the case directs the expert to address certain matters and his work is guided by the court decision.
- After the expert reviews the case file, he then interviews the litigants taking detailed handwritten notes of every question and answer in each interview. (Each interview memorandum must have a handwritten heading with basic case information.) When an expert calls for litigants to attend an interview in his office both litigants must be present. If one of the litigants does not appear the interview is not held and notice is sent with the date of a rescheduled appointment. Only if a litigant fails to appear for three appointments will the expert proceed to complete his report without the information from the absent litigant. (That litigant may then however challenge the report for being incomplete after it has been returned to the court.)
- When an expert report is completed it is reviewed by supervisors from the section head all the way up to the general manager who signs every report he approves. After a report is reviewed and approved the general manager's secretary records receipt of the completed report from the assigned expert. She then sends the case file with the expert report back to the court with the court's office boy. The clerk of the circuit that referred the case signs for the receipt of the report in a receipt book from the expert office.
- If the court sends a letter requesting that completion of an expert report be hastened the secretary in the expert office registers its receipt in a record book and then she refers the letter to the general manager. The general manager sends a note to the

expert to whom the case has been referred. If the expert does not respond it is understood that he has not yet completed the report. No reply is given to the court's letter.

- Transportation to and from locations to be investigated is a common problem confronted by experts in the completion of their work. A statute enacted in 1965 provides that experts are to be reimbursed £E 5 (the equivalent of about US \$1.50) per month for transportation expenses -- far below the actual cost of public transportation. This makes experts vulnerable to offers from litigants to pay the costs of transportation.
- Another problem for experts is security. One element of this is the possibility of being assaulted by litigants, whether in the expert's office or at the litigant's home or place of business. Another is the possibility of physical risk when an expert travels to a distant location for a site assessment. Finally, experts may be accosted and robbed if they are carrying commercial paper of high value in the streets.
- A third problem for experts is low pay. Even though experts can receive incentive payments equal to up to 100% of salary for reports completed beyond minimum standards, they still consider their pay woefully inadequate.

V Estimation and Collection of Final Fees

On February 19, 1997, AOJS staff members visited the final fee office to learn about the activities of its staff members with regard to civil and commercial cases.

- A case file is received by the final fee office after a final decision has been prepared. The final fee office is to determine if fees beyond those originally paid at case initiation are due to the court. (To encourage parties to use the court process, the initial fee estimate at the beginning of a case is made only on the first £E 1,000 (the equivalent of about US \$300) at issue in the case. The final fee determination is based on the total amount of the final award of damages.)
- Staff members in the final fee office record case information in their own record books. They then review all documents to determine whether all fees due to the court have been paid. They then deliver the case file back to the circuit clerk with their final fee determination, and the circuit clerk signs for the file.
- When the circuit clerk receives the case file from the final fee office, he is responsible to see that all fees due to the court are paid. Only when all fees are paid is the case ready for substantive execution against the judgment debtor. The circuit clerk sends the case to the court archives when all fees are paid.

APPENDIX D

SUMMARY OF CASE PROCESSING IN NORTH CAIRO COURT OF FIRST INSTANCE

On February 13 and 23 25 AOJS team members visited the North Cairo Court of First Instance to learn about the manner in which civil cases are processed. He received a detailed explanation of case initiation procedures case handling by circuit judges and clerks activities of the court's service department and the referral of cases for expert opinions. His observations about these procedures are presented here. For more details on this site visit see the notes on which this appendix is based.

I Case Initiation, Circuit Clerk Case Handling, and Decision Preparation

After meeting with Counselor Hafeez of the National Center for Judicial Studies (NCJS) on February 13 (see Appendix E) AOJS project staff visited the general jurisdiction trial court serving about half of Cairo's 16 million residents - the North Cairo Court of First Instance. They met the chief justice of the court and then they received a detailed explanation from leaders and staff of the court's civil department of the steps associated with the initiation of a case and its handling after assignment to a circuit. Reflections on those steps are offered below.

A Details Different from Those in the Ismailia Court

Because both courts are governed by the same regulatory requirements many of the steps described above in Appendix C for Ismailia are applicable in the North Cairo court. Differences are highlighted here.

- The case initiation process in the North Cairo court is more complex and spread out than that in the smaller Ismailia court. Instead of having court fees estimated and paid as the first step in the process the lawyer or litigant bringing a writ of summons goes first from the ground floor up to the second floor to have microfilming fees estimated and to pay those fees. His document is not microfilmed at this point however. Instead the writ of summons is stamped to show that the microfilm fee has been paid.
- The next step is to go to the ground floor where court fees are estimated by staff at a front counter. The fee estimate is then reviewed by another staff person to assure it is correct. After the writ is stamped by fee estimation staff and the estimated fee is written on the writ, the person moves to the next station at the front counter to pay the fee. On payment, a staff member stamps the writ to indicate payment.
- The person then leaves the fee estimation office goes out the front door of the court building, and walks around the building to a door on the side where a court staff member assigns a case number a circuit and a first hearing date. These are written on the writ of summons.
- The lawyer or litigant then takes the writ next door to the index room where it is reviewed by court staff to ensure that all steps have been taken all stamps affixed and all information entered. The person leaves a copy of the writ of summons with the staff of the index room and leaves with the original of the writ of summons.

- Unlike Ismailia, where the writ of summons might be delivered to the court's service office by either the court staff of the civil department or the lawyer or litigant himself, the North Cairo court requires that the lawyer or litigant deliver the writ of summons himself to the court's service office, which is the next step to be taken for the lawyer or litigant, going to a different building from where he initiated his case. Most often the lawyer or litigant must take the writ to the service office in one of the partial circuit courts located in different districts served by the North Cairo full circuit court.
- Meanwhile, court staff in the index office take the copy they have received of the writ of summons in a case and enter the party names and case number in one of two index books (one for odd-numbered cases and the other for even-numbered cases). Then they put the writ in a case file folder.
- Court staff members then send the case file upstairs to be microfilmed. A day later they retrieve the file from the microfilm office.
- Receipt of filings ends at noon, so that court staff members can reconcile cash receipts, record the different places to which fees are to be disbursed, and deposit receipts in the bank by 2:00 PM in the afternoon.
- After these steps are completed, the case file is carried to another nearby court building to the clerk of the circuit to whom the case has been assigned.
- On receipt of a case file, the circuit clerk signs for it, enters case details in a record book, and otherwise takes steps similar to those taken by circuit clerks in Ismailia to prepare cases for first and subsequent hearings and to manage decisions prepared by the judges by hand at home for typing at the court on manual typewriters.
- After a final decision is signed, it is sent for final fee review and collection, after which it is sent to the court archive.

B Observations on the North Cairo Process

The visit to the North Cairo court to observe case initiation was the first site visit made for the purpose of preparing this report. On the basis of that visit, there are several observations to be made that go beyond the specific details of the manner in which cases are processed in the court.

- The North Cairo court has a large clerical staff, with many court staff people touching each document that is filed as it proceeds from initial presentation to being put in a file folder.
- The courts in Egypt have a complex fee structure imposed by the regulatory measures enacted by the legislature. The fee structure's complexity, fears about having cash receipts and disbursements not properly accounted for, and an apparent "pay as you go" posture toward litigants, have all led to the development of an elaborate set of procedures to estimate fees, review initial estimates, audit estimate reviews, account for fees received, final determination of fees, and reviews of such final determinations. In North Cairo, this is a large bureaucratic process reflecting institutional distrust of the determinations made by any of its staff members.
- The complexity of the case initiation process is multiplied by the fact that documents are microfilmed at the time they are filed by a private microfilming operation. A person filing a writ of summons to initiate a case in the North Cairo court must first

have the microfilming fee estimated then go through the several steps having the court's receipt of the document recorded then bring the document to be microfilmed

- The lawyer or litigant bringing a writ of summons to the North Cairo court must himself walk the document through all the steps needed in the case initiation process before the case file is transmitted to the clerk for the circuit to which the case has been assigned. He enters the court building on the ground floor, must then go upstairs to the first floor to have the microfilming fee determined, after paying the microfilming fee, must go back downstairs to the court's front counter to have court fees estimated, must move along the counter to pay them to another person, must go out the front door of the building and around to offices on its side to have a case number, circuit assignment and first hearing date made, and must then bring the writ of summons to be indexed before he can leave the courthouse. There appear to be no signs or written directions to aid him in his effort to have all these case initiation steps done before he can leave the courthouse and seek to have the writ of summons served on the defendant.
- It seems highly desirable to simplify the process through which the lawyer or litigant bringing a writ of summons must go in order to initiate a case. An optimal goal would be to have everything the court must do with the writ of summons accomplished at one location. This would call for streamlining of the fee determination process -- if not by radically simplifying the fee structure, then at least by computerizing the fee regulations and adding appropriate verification and control mechanisms. Making the case initiation process a one-stop event for the lawyer or litigant, with all other steps being internal to the court, would make the court process much more user friendly.
- If the case initiation process in North Cairo cannot be turned into a one-stop shopping experience, then steps should be taken to make it less confusing and laborious for the person bringing the writ of summons. He should not be made to go upstairs, then downstairs, then outside the building to two other offices before bringing a writ to the service office in a different location. The offices to which he must go could be organized to be more contiguous to one another and located in a logical order. A guide to the steps for case initiation could be prepared and steps might be taken to assist persons who might have difficulty understanding a written guide.

II Service of Process

On February 23, AOJS project staff learned about the activities of the service offices located at the court of first instance in North Cairo. On February 24, they visited the partial circuit court in Nasr City to interview service office staff members. Highlights of those visits are set forth below.

A Service Management Office and North Cairo Servers in General

The service management office oversee service operations in the partial circuit courts for each of the seven districts served by the North Cairo Court of First Instance. It also has special service offices for diplomats and military personnel as well as for foreign parties and commercial service. All service of writs and notices for acknowledgment and all executions are done by the service offices in the seven districts. They all report to the management office on the number of their service cases and the fees they receive.

All servers are appointed and assigned by the Ministry of Justice. They are distributed among the different offices according to reported workload levels. Before the first official training session was given on February 24, 1997, all training for servers was done "on the job." This training session is to be followed by an examination after which those passing the examination will be eligible for promotion from service of writs and notices for acknowledgment to executions.

There are no written standards of performance for those working as servers. It is assumed that they know what is expected of them. The most common complaints that the management office receives about servers have to do with delays in the completion of service. If a complaint is made that a server is corrupt, the management office arranges an investigation. If corruption is found, the server is punished by having money deducted from his salary. Few servers (only about three of the last 500 investigated for corruption) have been formally prosecuted. Corruption is seen to arise because servers are overworked and underpaid.

B Office for Service on Diplomats and Military Personnel

When litigation is initiated anywhere in Egypt that involves a diplomat or a person in the military service, the writ of summons must be sent to the office in North Cairo for service and acknowledgment. The office has the following procedures:

- When a person brings a writ of summons, the service office staff members record receipt and relevant information in one of three record books (one is for money claims, another for other civil cases, and the third for criminal cases).
- Service on diplomats and military people is always done through a prosecutor. The writ of summons is brought to the prosecutor's office, which signs for it and then completes service. Service is considered accomplished when the writ is delivered to the prosecutor.
- The responsibility of this office is thus to do no more than to record receipt of a writ of summons and to deliver it to a prosecutor for service. The office does not follow up on whether service by a prosecutor has been successful.
- This office also receives requests to serve writs of summons that come from other parts of the country but for which the sending court does not have specific information on where in Cairo the writs are to be served. Office staff members determine the service office in Cairo through which service should be done.

C Service Office in Nasr City Partial Circuit Court

One of the seven service offices through which service is carried out is that for the partial circuit court in Nasr City. Noteworthy observations not previously mentioned or worth reiteration are the following:

- The senior service supervisor and his assistants appear to spend a significant portion of their time maintaining a large number of separate record books to keep track of matters for which the servers in the office must accomplish service. The office has record books for civil cases in the Nasr City court, for civil cases received from other courts, for executions, for criminal cases prosecuted in Nasr City, for those prosecuted elsewhere, for fee claims on final decisions by the court, complaints against servers and other administrative matters, litigants who have been found but who refuse to acknowledge service, petty cash and miscellaneous expenses, incoming mail, and outgoing mail. Entries in each of these books are handwritten.
- Litigants may request copies of memoranda made by servers, especially those for execution. For this purpose, litigants must prepare written requests, take fee estimates by the service office and pay them to the court cashier, and have a certificate prepared and authenticated by hand by staff in the court's copies office.
- The supervisor of the service office in Nasr City identified common complaints of servers. First, they feel overworked and understaffed. Second, transportation is a problem because of low reimbursements. They are at risk of physical harm on the streets, because they may be beaten by the parties. They have no safe place to keep money collected late at night. Streets and buildings are often unmarked so that service efforts are time consuming.

III Referrals for Expert Opinions

On February 25, the AOJS project staff discussed referral of cases for expert reports with officials in the office of the chief justice. They also interviewed the supervisor of the North Cairo expert office and the director of the central office for all expert offices throughout Egypt. The main features of those interviews are offered here:

A Court Perspective on Expert Referrals

Much of what occurs with North Cairo case referrals for expert reports is similar to the process in the Ismailia court (see Appendix C) or has been discussed in judge interviews (see Appendix B):

- The chief justice perceives that completion of expert reports is one of the primary causes of delay in North Cairo civil and commercial cases.
- While case files in Ismailia are brought to and from the expert office by an employee of the court's civil department, the court in North Cairo has a department completely separate from the civil department for this purpose.
- The North Cairo court refers half of its cases to the North Cairo expert office and the other half to the East Cairo expert office. Cases referred in the first half of each month go to the North Cairo office, and those referred in the second half of the month go to the East Cairo office.

- Litigants are often utterly confused in their efforts to find the expert office to which their cases have been referred
- Experts scheduling appointments with litigants send notice by mail. But post office delays often result in having the litigant receive notice of an appointment *after* the date on which it was to be held
- The court refers about 6 000 cases for expert reports each year

B North Cairo Expert Office

The North Cairo and East Cairo expert offices appear to be on different floors of the same building, across the street from the North Cairo court complex. They are in a tall office tower among several other such towers distinguished by being the dirtiest among the lot. There was some bureaucratic resistance to seeing the AOJS interviewers. The general manager of the East Cairo expert office was unavailable for an interview. The general manager of the North Cairo office consented to an interview but it was cut short when he was ordered by the director of the central headquarters for all expert offices throughout the country to give us no further information. At that point he led us to the office of the director. Highlights from the interview with the North Cairo general manager before it was cut short are the following:

- The general manager of the North Cairo expert office believes that difficulties in the prompt completion of expert reports do not exist. Litigants sometimes present problems for experts. The primary problem he sees is that the office has an inadequate number of experts for the volume of work it faces.
- Under orders from the Ministry of Justice experts in North Cairo deal with cases in the order in which they were received. (This appears to be at variance from the practice in the Ismailia expert office -- see Appendix C.)
- The supervisor considers it unreasonable for the court to write a letter to the expert office about a case referred only last year. If the court sends letters to the expert office in the face of expert office practice not to reply to such letters, why does the court not just stop sending letters?
- Once a case is received from the court an office boy brings the case to the supervisor for assignment to an individual expert. It takes about one week from the time a case file is received to the time the assigned expert receives it.
- Cases are assigned to experts according to both their respective areas of expertise and the amount of experience they have. New experts are assigned simpler cases.
- When experts travel outside the office they face a risk of physical harm. In multi-party tenancy cases a three-expert panel may be used and a police escort provided. Unlike the Ismailia expert office the North Cairo office apparently does not have problems arranging for police escorts. Agricultural experts are particularly exposed to risk if they must go out to the countryside where they may have parties shooting at them. There is no extra pay for a high risk assignment.
- Unless a case is designated urgent an expert does nothing with beyond registering its receipt until he has completed all prior cases assigned to him.
- Expert reports are written by hand then reviewed by the expert's supervisor and by successive supervisors up to the general manager.

- Only about 10% of all expert reports are returned by the court. When this happens the case is assigned to the same person who prepared the initial report unless there is evidence of bribery. If a report is returned because the expert did a poor job, he is punished by having 20% of his salary deducted. His supervisor is also punished by having £E 6 (about US \$180) deducted from his pay.
- Some cases need 3-4 months work from an expert. But experts are not paid enough to permit them to commit that kind of time to a case. They are paid as much for completing a simple case as they are for a difficult one.
- Low salaries are not a problem impeding the quality or timeliness of expert work. Experts in Cairo are paid more than those in other locations.

C Central Headquarters for Expert Offices

After about twenty minutes the AOJS interview with the general manager of the North Cairo office was interrupted by a telephone call from the director of central headquarters for all expert offices. The AOJS project team was invited to the director's office at that point.

- The director asked why the AOJS team takes for granted that there are delays in the expert offices. When the interviewers explained our plans to analyze a random sample of cases from the pilot courts to ascertain all of the causes for delay in civil and commercial matters, he appeared more willing to discuss the operations of expert offices.
- The director insisted that cases do *not* take a long time to be completed in the expert office. Of course, more difficult cases take longer to have reports completed. The problem is with litigants who do not provide all the documents needed for the completion of an expert report. This problem should be remedied, he said, by a recent Ministry of Justice decree that all relevant documents must be included with the filing of a writ of summons.
- Some cases, such as those involving claims over old real estate, require that experts inspect documents from many different sources. These cases said the director can sometimes take as long as six months for completion by experts.
- In the last week of February the central headquarters of the expert offices was employing 250 new experts to help reduce the backlog of cases awaiting completion of expert reports. [The director appeared to see no inconsistency between this fact and his assertion minutes earlier that cases do not take a long time to be completed by experts.] The new experts will train for three months in Cairo and then they will be dispatched where needed to take cases. (This supplemental level of expert staffing appears to be temporary, to last for only three years.) About 20-30 of the new experts will be assigned to Cairo.
- The director said that his office does not keep statistics of the number of cases sent to court or of the number sent back by the court. Yet many cases are sent back, although this is not the experts' fault, he said. About 70-80% of those sent back are the litigants' fault, because they object to expert reports. Judges do not screen cases to determine whether they should in fact be sent back to the expert office.

- In apparent contrast to the observation by the general manager of the North Cairo expert office, the director indicated that experts do not face a risk of physical harm when they visit buildings in a tenancy case. Defendants are the main source of delay in such cases making it difficult for an expert to inspect premises under dispute.
- In cases involving agricultural experts employees of the Ministry of Agriculture may be bribed to impede the work of the experts. The Ministry of Agriculture employees may direct the expert to the wrong property. Or despite an apparent requirement that they accompany an expert on a site visit to agricultural property they may refuse to do so. If an expert's efforts to complete his work are thwarted by such means he sends the case in question back to the court.
- The central headquarters has a computer center. With the computer headquarters staff can determine the workloads in each expert office. The number of cases received by such office [but not the number of reports completed or sent back by the courts?] is entered and monitored with the assistance of the computer.
- When an expert office is backlogged the central headquarters seeks to deal with this by reallocating experts temporarily from other offices.
- There are about 150 experts working in the North Cairo and East Cairo expert offices. To this will be added about 20-30 new experts employed in 1997.
- If the expert office receives a court letter about the status of an expert's work on a report office leaders look into the matter to see if there is delay. But they do not reply to court letters because they receive so many.

IV Computer Office in North Cairo Court of First Instance

On February 23, the AOJS project staff made a brief visit to the computer office in the North Cairo Court of First Instance. Four staff members sit at desks in the office. Across from them on separate tables are the court's two desktop computers. At the time of the AOJS visit none of the staff members was working with either computer. Each machine was turned off and had its keypad covered with a clear plastic dust cover.

The only people currently authorized to request information from the computer office are judges although preparations are underway to give computer assistance to the court's statistics office. Judges make requests for information through the chief justice's office and they do not come directly to the staff of the computer office. Not many judges request information however, because the head of the computer office understands that the most recent Court of Cassation decisions in the database are from 1985.

V Law Library in Nasr City Partial Circuit Court

During their visit to Nasr City on February 23 the AOJS project staff stopped briefly in a small law library recently created for the court. Because resources available for judges at the courthouses in the pilot sites and elsewhere appear to be limited it is worthwhile to give mention the library in this court.

Before the creation of the law library judges would ask for information and court staff members would have to go to the court in North Cairo. There they would have to

There is some lack of certainty about this. AOJS computer specialists have been told to understand that the database has Court of Cassation decisions through 1993.

photocopy the materials desired by a judge. The new law library in Nasr City was created with the assistance of the Judges' Club (the organization of judges and a physical site where they can congregate). It contains many of the reference works that a partial circuit judge might typically need for his work.

APPENDIX E

SUMMARY OF VISIT FEBRUARY 13, 1997, TO NATIONAL CENTER FOR JUDICIAL STUDIES

On February 13, 1997 AOJS project staff members visited North Cairo. They met Counselor Omar I. Hafeez, Justice of the Appellate Court, who is directing the endeavors of the National Center for Judicial Studies (NCJS) relating to educational efforts in support of civil court improvement. The discussion with Counselor Omar yielded the following highlights:

- An estimated 300 new prosecutors and judges are educated each year (there are about 5,000 judges throughout the country). After service as prosecutors for a period of years, those aged 30 and older are eligible to serve as judges. At age 40, they are eligible to serve as appellate judges. During his years of service a person typically alternates back and forth between being a judge and being a prosecutor.
- There is a significant gap in status between judges and lawyers, and judges do not have the working relationship with lawyers that they have in the United States. There has not been any official involvement of lawyers in the civil court improvement effort of which the AOJS project is a part.
- NCJS plans to have computer hardware in its education facility for judges to learn about the use of computers in support of their work, as for the preparation of decisions.
- ADR (the use of retired judges as mediators) is anticipated to be one important facet of the civil improvement effort. The use of lawyers as mediators is not contemplated.
- Plans are underway have the legislature enact a law to create a position of civil prosecutor to expedite the movement of civil cases to disposition. There may be one such official for each circuit of a court of first instance. The person serving in this role would be a judge and would be trained to focus on managing the movement of cases including referrals to ADR.