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NETHAM RULE OF PROJECT NEWSLETTER, VOL. 1 NO.5

Second Annual Judicial Conference Focuses on Judicial Independence

The USAID-funded Netham Project supported the convening of the Second Annual Palestinian Judicial Conference held in Bethlehem at the Intercontinental Hotel from July 16-18, 2009 under the theme "Toward an Independent Judicial Authority." Over150 judges from the West Bank and Gaza as well as the Palestinian Prime Minister and Chief Justice attended the conference.

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Head of the Supreme Judicial Council

Chief Justice Farid Al Jallad

On December 1, 2009, His Excellency Farid Al Jallad was sworn into office by President Mahmoud Abbas to serve as the Head of the Supreme Court and the Head of the Supreme Judicial Council, as per a Presidential Decree.

Facts about His Excellency Farid Al Jallad

- Served as the Legal Advisor for the President of the Palestinian National Authority – 2009.
- Served as Minister of Justice (Ninth Government) 2005.
- Served as Deputy Minister of Justice – 2003.
- Served as Technical Director – Legal Framework and Procedure Development Project – 1999
- Served as Head of the Palestinian Bar Association in the West Bank (elected) - 1994
- Served as Deputy Head of the Palestinian Bar Association (elected) – 1989
- Served as a Nablus First Instance Court Judge – 1974
- Served as a Nablus Conciliation Court Judge – 1971

Developing the Palestinian Judiciary and Legislative Constraints

By Former Chief Justice Issa Abu Sharrar

Developing the Judiciary is a national need first and foremost. The development process is also a continuous operation that begins with one step to be followed by many others.

The judiciary is considered a national and a political necessity since an active, neutral and impartial judiciary in a state will lead to a stable society. Additionally, the judiciary safeguards security which cannot be achieved in the absence of its independence and if the scales of justice are tipped. Achieving justice for citizens goes hand in hand with guaranteeing their security through applying the law in accordance with the rules of justice.

Applying the law to bring about security will consequently lead to stability in the society and economic prosperity to its citizens. Due to this fact, I consider developing the judiciary a social necessity.

Development is a cultural necessity since an independent judiciary is the strongest guarantor to achieving justice. Added to this, the greatness of any authority is in the strength of the justice it achieves. Also, an independent fair judiciary is the result of a long struggle by the peoples of the civilized world.

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- Thousands of School Students Attend Performance of Rule of Law Play

Second Annual Judicial Conference

Prime Minister Salam Fayyad addresses Second Annual Judicial Conference held in Bethlehem

Chief Justice Issa Abu Sharar and SJC judges during the Judicial Conference

During the conference, Supreme Judicial Council (SJC) accomplishments over the past year were highlighted including the increase in the number of judges, the reduction in the case backlog in criminal courts and the completion of extensive renovations in several courthouses. Most of these activities took place with USAID assistance.

Addressing the conference, Prime Minister Dr. Salam Fayyad expressed his continuous support for the justice sector and his deep belief in the principle of separation of powers between the Legislative, Executive, and Judicial branches of government. He declared great respect and support for the independence of the Judiciary. In working toward this goal, he stated that he has given instructions to all security and other executive government departments that court requests and verdicts should be treated as final and immediate commitment to those decisions are non-negotiable.

"The judicial system cannot be effective and Justice will not be served if the Executive Authority is not carrying out its duty in achieving security and enforcing the rule of law and public order"

The Prime Minister went on to say that the government is committed to the Judiciary and the rule of law, which leads to respect and trust from citizens for the government and its institutions and is basic to the sovereignty, stability and order of the Palestinian state. He further stated that "supporting independence of the judiciary, and the role that the Executive Authority can play in this area, constitutes one of the fundamental pillars of the government's plans for the Palestinian Authority."

Judges took part in working groups during the conference to discuss four main issues including "Independence of the Judiciary," "Role and Authority of Judges," "Risks that the Palestinian Judiciary Face," and "Future Challenges Facing the Palestinian Judiciary."

The Chief Justice, Issa Abu Sharar, in his speech before the conference noted the importance of the participation of all the Gaza judges that were prevented by the Israelis from coming and expressed the hope that they would be able to attend next year's conference (USAID was able to secure permits for three Gaza judges to attend). He also cited the SJC's accomplishments this past year, especially improvements in case dispositions. Some accomplishments of the past year that were highlighted included an increase in the number of judges, a reduction in the case backlog in criminal courts and the completion of extensive renovations in several courthouses. The number of judges increased by 33% from 135 to 181 in 2008 over the previous year. Before beginning work in the courts in September 2008, all new judges received extensive new judge training in Jordan and the West Bank. Courts in Jericho, Jenin, Bethlehem, Nablus, Hebron and Ramallah were upgraded in the last year. Additionally, land was purchased and plans finalized for new courthouses in Hebron,

Focuses on Judicial Independence

Ramallah, and Tulkarem, addressing the SJC's strategic objective of having a suitable court infrastructure for citizens, lawyers and judges.

The Chief Justice noted his appreciation of the Prime Minister's support for judicial independence and praised the directives issued by His Excellency, the Prime Minister. The Prime Minister asked that the ministries and the Authority departments make all efforts to execute court verdicts promptly.

"It is the independence of the Judiciary, as one of the three state authorities standing on an equal footing with both the executive and legislative branches, which gives the independence of the Judiciary its real meaning."

The Chief Justice also emphasized the need for judges to possess confidence in their belief in judicial independence. He stated that "the self confidence of judges in the concept of judicial independence is one of the most significant elements supporting the independence of the Judiciary as an authority and the independence of judges as individuals."

The final conference recommendations focused on supporting independence of the Judicial Authority. These recommendations included improving legislation, strengthening the Executive Authority support for Judicial Authority independence, and establishing the concept of judicial independence and neutrality as a guarantee for safeguarding citizens' rights and freedoms.

Chief Justice Issa Abu Sharar supported the proposed recommendations resulting from the conference, stating that these recommendations reinforced the goal of judicial independence. The Chief Justice asserted the right of the SJC to draft and amend laws relating to the Judiciary, and issue opinions regarding such laws, including the Judicial Authority Law, the Court Formation Law and the Law of General Pardon. He also stated that for the SJC to achieve independence, the budget of the Judicial Authority should be included as a single line item in accordance with the laws of the state's general budget. Thus, the Judiciary would be able act independently from other authorities and implement its objectives according to its own vision and strategy. He urged the SJC to resume the construction of courthouses throughout different districts. Finally, the Chief Justice asked that the Judiciary be protected from interference by any political or administrative authority, and from physical or moral influence under the guise of mutual cooperation.

In the concluding press conference with the media, Chief Justice Issa Abu Sharar thanked all participants, speakers and the press for their support. He stressed the importance of the great cooperation between the Prime Minister's office and the Judiciary. He also praised USAID-supported Netham Rule of Law Project for its support of the conference and the major role it had in upgrading facilities and systems and helping to accomplish the judiciary's Justice Sector Strategy achievements in the previous year.

Chief Justice Issa Abu Sharar addresses the Second Annual Judicial Conference in Bethlehem

Chief Justice Issa Abu Sharar and SJC judges during the Judicial Conference

Justice Sector Officials Celebrate Judiciary Day and Highlight Judicial Accomplishments

Judiciary Day Celebrations

Independence of the judiciary and respect for the rule of law were the key themes at Judiciary Day 2009, an event widely attended by justice sector leaders in the West Bank and supported by the USAID-funded Netham Rule of Law Project. Judiciary Day brought focus to raising awareness regarding rule of law, increasing accountability among justice sector officials, and improving public trust in, and access to the justice sector. This event included approximately 400 attendees representing judges, court staff, civil society organizations, lawyers, and parties interested in justice sector development. The Chief Justice, the Minister of Justice, the Head of the Palestinian Bar Association, and the General Commissioner of the Palestinian NGO AMAN Transparency Palestine all made presentations.

The event kicked off with the screening of a 17-minute documentary film produced by the Supreme Judicial Council's Media and Public Relations Department with Netham assistance. The film highlighted the 2008-2010 Justice Sector Strategy of the Supreme Judicial Council (SJC) and what has been accomplished pursuant to its adoption in the past year, including the creation of new SJC departments for training, media, court administration and judicial inspection, as well as enhancement of existing departments such as planning and information technology. The film also set forth the SJC's goals for the next year as outlined in the Justice Sector Strategy.

Planning for Judiciary Day 2010 is already underway as the event is now an important annual occasion for the justice sector.

The President's representative, Saleh Ra'fat, expressed the President's support of the SJC's accomplishments and achievements, which he noted had been made despite the difficulties of implementing justice sector reform in the current political environment. Mr. Ra'fat also confirmed the President's support for an independent judiciary, one in which the highest authority is not that of a government official, but of the authority of the law. He further stressed the President's continued support for the justice sector, including areas such as finance, human resources, and logistical needs, and especially areas relating to judicial training and improving court facilities.

Chief Justice Issa Abu Sharar's remarks included an overview of the SJC's significant achievements during the past year. He welcomed the continuing support of the President, government and civil society, but warned of what continues to be inappropriate attempts by some politicians to influence judicial outcomes. He further cautioned those in attendance that political division has the potential to negatively affect the fair and transparent operation of the justice sector and called for unity in drafting legislation which supports an independent judicial system. He concluded by thanking the USAID-supported Netham Rule of Law Project for its continuing efforts to support the rule of law in the West Bank.

Minister of Justice Ali Kashan took the opportunity to emphasize the importance of judicial training for both new and current judges. He also stressed the requirement that, like health and education services, access to the justice sector must be guaranteed to all citizens. Ali Muhana, Head of the Palestinian Bar Association offered particularly compelling words in encouraging the justice sector to continue to improve. He noted that while we should be proud of the achievements, "that does not mean we should forget the weaknesses, and we hope that the necessary tools will be provided to deal with the weaknesses", yet emphasized that," The Judiciary had taken off and had been able to achieve many breakthroughs."

(left to right) the Head of the Palestinian Bar Association Ali Muhana, the Chief Justice Issa Abu Sharar, the President's Representative Saleh Ra'afat, Minister of Justice Ali Khashan and the General Commissioner of AMAN Azmi Al Shuaibi attend Judiciary Day 2009 events

A New Bethlehem Courthouse is Inaugurated with USAID Support

With a crowd of over 150 guests, including dignitaries, ministers and members of the public, Chief Justice, Issa Abu Sharar presided over the opening of the USAID-funded renovation of the first floor of the new Bethlehem Courthouse.

Addressing the crowd, Abu Sharar thanked USAID and the Netham Rule of Law project for their support in renovating the first floor. He also thanked PECDAR and the Malaysian Government for funding the renovation of the second floor of the Bethlehem courthouse. The Chief Justice noted that the renovation of the courthouse helps achieve the Supreme Judicial Council's strategic objective to support an improved court infrastructure in the various West Bank courts. Elaborating further, Abu Shrar noted that courts in Jericho, Jenin, Bethlehem, Nablus, Hebron and Ramallah have all been upgraded in the last year and land has been purchased with plans to build new courthouses in Hebron, Ramallah and Tulkarem.

Chief Justice Issa Abu Sharar during ribbon cutting ceremony of the newly renovated Bethlehem Courthouse

Addressing the ceremony, Minister of Public Works, Dr. Mohammad Ishtayeh, praised the SJC for its dedication in working to improve court conditions. The newly renovated courthouse will be smoke-free, in adherence to Palestinian law, as announced by the Chief Judge of Bethlehem Courthouse, Hazim Idkedek. Idkedek emphasized that the building will adhere to a non-smoking environment for all, including citizens, lawyers and judges.

Following the ceremony, the Chief Justice guided guests on a tour of the renovated floors which house the Notary Public Department, the Civil Judgment Department, and the Clerks' Offices of the First Instance and Conciliation Courts. As a result of the newly built external entrances, the public can now conduct their court business without having to actually enter the courthouse, making access easier for the public.

The renovations funded by Netham included: painting of the first floor, upgrading the electrical system, installing computer backup wiring, providing wooden counters, building waiting room seating, installing a queuing system and putting up signage in the Notary Public Department and Civil Judgment Department.

Guests expressed their best wishes for an efficient courthouse that would help process pending cases and would facilitate procedures for citizens. It is expected that the recently renovated court house will contribute positively towards creating a healthy and more efficient environment for both court employees and the public.

(Left to Right) Head of Court Administration Department Judge Izzat Al-Ramini, Netham's Chief of Party Nabil Isifan, Netham's Senior Technical Advisor Susan Coleman, and Chief Justice Issa Abu Sharar during the opening of Bethlehem Court

USAID Supports Inauguration of the Public Services Office at the Ministry of Justice

Presided over by the Prime Minister Salam Fayyad, the USAID Mission Director Howard Sumka and a crowd of citizens, an opening ceremony of the renovated Public Services Office took place at the Ministry of Justice (MOJ) grounds on June 17, 2009. The Minister of Justice, Ali Khashan kicked off the event with an introduction to the new offices followed by remarks from the Prime Minister and the USAID Mission Director who praised and congratulated the MOJ's dedication. He also hailed the importance of such initiatives in elevating the performance of justice sector institutions and facilitating the services they provide to the public.

Prime Minister Salam Fayyad and USAID Mission Director Howard Sumka during ribbon cutting of the Public Services Offices at the Ministry of Justice

Netham has been supporting the MOJ's efforts in implementing its strategy since 2008, and has been focusing on the area of enhancing public services, an integral part of which included development of the National Justice Records Office (NJRO).

The NJRO will oversee the National Justice Records System that provides a fundamental service to the public in issuing "non–conviction certificates" requested by citizens for various transactions including job applications, applying for visas and other issues. To prepare for the inauguration of this new office, Netham assisted in developing the NJRS software system which will retrieve and issue certificate information, as well as training MOJ staff to manage this system.

The opening of this new office constituted the first time a documented, centralized, and coherent national database that comprises the essential criminal data of citizens has been made available. It also introduced the service of issuing non-conviction certificates in a more suitable environment and in a timely manner for the public. The public had previously been required to go to various ministries and departments to issue this certificate which was often time consuming and confusing. Consequently this initiative has elevated the sense of customer satisfaction among the citizens addressing the MOJ for this service.

The event was concluded then by a ribbon cutting and a visit to the renovated location made by the honorable guests. During the visit, the Prime Minister was awarded the first Non-Conviction Certificate issued automatically by the system declaring the official launch of the NJRS services.

The Ministry of Justice is expanding this service outside the center location of the NJRO in Ramallah and will establish service centers in the southern and northern districts of the West Bank such as Nablus and Hebron. This expansion will make it easier for the public to access the NJRO services with minimal efforts and in a timely manner.

Prime Minister Salam Fayyad and USAID Mission Director Howard Sumka attend the opening ceremony of Public Services Offices at the Ministry of Justice

Thousands of School Students Attend Performance of Rule of Law Play

Through a Netham grant titled "With Arts We Promote Law," Dar Al-Fonon Wa Al-Torath Center in the Askar Refugee Camp in Nablus implemented a four-month grant activity focusing on the concepts of rule of law, justice and non-violence among school students. Through this activity, over 8000 students visited the Dar Al-Funoun theatre to attend and take part in a Rule of Law play production.

Dar Al-Fonoun is a civil society organization dedicated to reviving Palestinian heritage and preserving its identity through the collection and documentation of traditional materials. Dar Al-Fonoun also works to promote the arts and develop young artistic talent.

The "With Arts We Promote Law," play followed a shadow theater format, where the show was stopped at certain segments to draw the audience's attention to critical points and engage the students to re-perform the act. Discussions were also conducted at the end of the performance which were led by a group of lawyers and civil society activists.

Among the key themes addressed in the play were students' and teachers' behavior in school, respect for traffic laws, and overall respect for rule of law. The final scenes tackle the prevalent issues of child labor, and selling expired goods. According to the Palestinian Central Bureau of Statistics (PCBS) 3.8 % of the total number of children ages 10-17 years participated in the labor force in 2005. http://www.pcbs.gov.ps

About 8500 children attended the play production including students participating in summer camps from Nablus and the surrounding villages. The children's participation was remarkable during and after the play. "I loved the play, it taught us a lot about school and street behavior, especially respecting traffic laws," said Omar. He also added that he wished to become a policeman so that he would be able to apply the laws when he grows up.

Another student, Hala, who was eager to participate, commented that she liked the play because she learned new things emphasizing the information related to the laws in her civic education book. She went on to say "I want to become a lawyer to defend victims" and "violence doesn't lead anywhere; however, the law does."

Dar Al Fonoun play production events

Highlights on the Establishment of the National Justice Records

Public Services Office at the Ministry of Justice

Mohamed Abdullah, Director of the National Justice Records Office (NJRO)

How do you observe the establishment of the National Justice Records Office at the Ministry of Justice?

The new system not only influenced the quality of services offered to the public, but it improved the performance of the Ministry of Justice in general. Internally, the Justice Records Office encouraged the staff to perform and upgrade their legal and IT knowledge. It also created common language among the working team where expertise and knowledge were exchanged for the benefit of the work. The system also urged direct coordination with the Public Prosecution offices and ministries involved in the process such as the Ministry of the Interior. Indirectly, the office positively influenced the dialogue and the coordination between the Public Prosecution offices and the Judiciary regarding the criminal verdicts execution process and the delivery of the rendered verdicts to the Public Prosecution.

Do you believe that the NJRO has achieved its objectives?

The establishment of the NJRO has not yet accomplished its ultimate objectives, although it succeeded in creating a centralized and reliable criminal database for residents of the West Bank. At a later stage, the system should be capable of providing access to some governmental apparatuses and borders for criminal pursuits and detection.

Nevertheless, the system has:

1. Created a centralized and reliable criminal data base for residents.
2. Improved the Ministry of Justice interface with citizens and promoted the culture of serving the citizen in a more respectful manner.
3. Upgraded the Ministry of Justice staff performance and raised their commitment to work.
4. Encouraged the introduction of automated solutions to the MOJ's work approach.

Majdi Mohamed, Legal Assistant at the Legal Department

How did the establishment of the NJRO affect your work at the Legal Department in the Ministry?

The NJRO at the ministry affected the work of the legal assistance in a very positive way. The initiation phase of the system required efforts by the legal team in reviewing and developing the justice record legal framework, which is in harmony with the concept assumed by the ministry in this regard where "people are assumed innocent unless otherwise proven according to the law."

These efforts helped the legal assistants at the Ministry

Office with the Ministry of Justice Staff and Key Personnel

Citizen using the newly developed Justice Record System

to explore their legal knowledge and the challenges in this regard pushed them to their ultimate capacities. The presence of the system broadened the Legal Department's scope of work, requiring more dedication of the working team and adding more value to our work.

Huda Weheidi, Director of the Information Technology Department

What was the role of the Information Technology Department in the initiation of the NJRO?

As an IT Department we were involved initially in the inception phase of the system starting at the development and then the implementation phase. Our staff participated in the review of the envisioned system and its specifications. They also reviewed and commented on the proposed design and followed up with the implementation body that programmed the system.

How did the JRO affect performance of the IT department?

The work experience in the NJRO has improved the IT staff's understanding of the technological requirements of the legal sector and helped them understand the importance and the mechanisms of system analysis in developing the legal systems. It also developed their understanding of the strengths and the limitations of modern software development tools and decision making in this regard. Through this process, the IT Department became more responsive to the ministry's needs and became capable of better troubleshooting techniques, better turnaround time and assuming the increase in workload due to increase in demand on the IT Department after the upgrading of the MOJ services.

Exploring the citizens' views on the upgraded services at the Ministry of Justice

Ahmed Hardan, 37, Ramallah

Ahmed is a citizen that applied for a non-conviction certificate at the MoJ new service location.

I used to come to the MOJ for several purposes, but this time I am here to apply for the non-conviction certificate. I realized the magnificent environment of the service; the area is very well equipped with waiting chairs, and an automatic waiting system. According to a defined procedure I got the certificate in a very short time - few minutes only - and in a very respectful manner. Previously, the service area was very bad and I couldn't know the right procedures. The process was very complicated and I was obliged to hire an attorney to accomplish the issue on my behalf and I waited for 4 days to get the certificate.

I think the upgrades that we witness today in the services at the MOJ are very important as they ease the publics' ability to accomplish needed transactions. We hope to witness more improvements, and wish that such initiatives could reach other services in the Palestinian Authority.

Huda Weheidi - Director of the IT Department

Majdi Mohammed - Legal Assistant

Mohammed Abdullah- Director of NJRO

Key Rule of Law Initiatives Awarded to Students, Schools, and Teachers in the West Bank

The Ministry of Education and Higher Education (MOE), with Netham's support implemented two major initiatives including a Rule of Law Award and Creative Writing competition that reached out to thousands of students, teachers and hundreds of schools in the West Bank in order to raise students' awareness on rule of law and civic education concepts.

Winners of both initiatives were awarded on July 1, 2009 as part of the judiciary's annual Justice Day celebrations. This widely attended event included her Excellency the Minister of Education, Lamis Al Alami, USAID's Mission Director, Howard Sumka, the Attorney General, Ahmed Al-Mghani, the representative of his Excellency the Chief Justice, Judge Izzat Al Rameeni and Ammar Al-Aker, and General Director of the Palestinian Cellular Communications Company, Jawwal. Also in attendance were Ministry of Education officials and staff, representatives of civil society organizations as well as the winning students and their families.

The Rule of Law Award recognized five schools with awards of $500 USD each and four teachers with laptops and their schools with $250 USD each for their exemplary efforts to raise awareness and promoting rule of law in their communities. The winners were selected among 46 initiatives. Perhaps even more impressive was the submission of 900 creative writing pieces, including short stories and play scripts focusing on rule of law in the community, democracy and civic education. Fifty winners were selected and they received gifts including digital cameras and digital dictionaries, courtesy of the Palestinian Cellular Communications Company - *Jawwal*

"It is really an honor to be here today, and watch my daughter receive an award for this unique yet important initiative. We are really in need to raise not only students' awareness, but also every single citizen in our Palestinian society as Rule of Law is an address to democracy and justice," said a family member of a winning student.

This past year witnessed an emerging relationship between Netham and the Ministry of Education throughout all stages of designing and implementing both competitions. Special orientation sessions on implementation of award programs were provided to MOE staff. In addition, guidance materials for teachers and students were also available to all schools throughout the West Bank.

The Ministry of Education's vital role in raising students' awareness on Rule of Law issues, and having such programs endorsed and implemented in schools as part of the educational programs will contribute to a democratic Palestinian society.

Students recognized for creative writing and rule of law initiatives during the Rule of Law Award Ceremony

Minister of Education, Attorney General, and USAID Mission Director take part in the Rule of Law Award Ceremony

Sample of winning initiatives

Among the Teachers Circle of Winners

Isam Dababseh

Sarem Eldin El Nijmi School, Nablus District

Dababseh's objectives were to raise the students' awareness on the importance of respecting school rules and regulations as part of respecting rule of law. They accomplished this through identifying the issues that adversely affect respect for school regulations, pointing out the positive side of respecting regulations by developing flyers and posters about school regulations. They also used the method of awarding disciplined students.

Naji Mahmoud Abu Arra

Aqqaba Boys Secondary School, Tubas District

Students were given the task to look for the environmental problems in Aqqaba village especially uprooting village trees, and to look into articles related to the Palestinian Constitution. Interviews with citizens and land owners as well as officials were conducted to raise awareness on the necessity of protecting the environment.

Fahed Qattoosah

Der Ammar Boys School, Ramallah District

Qattoosah taught civic education and democracy concepts through creating a children's parliament in the school going through all stages of the election process with students.

Thareefah Shker

Bedya Girls Secondary School, Salfit District

Shker worked with her students on assisting the municipality in collecting debts from the citizens as part of the national obligation according to the Palestinian Basic Law. This activity included an awareness campaign in the village, in addition to distribution of posters and brochures, which urged citizens to pay some of their debts.

Among the School Circle of Winners

Al Ma'moun Primary School – Yatta – Hebron

The school succeeded in establishing a mothers' committee in a boys' school to assist the school in the difficulties they face with the students' attitudes and the disrespect for school laws and rules. Mothers assisted in the educational process as well as changing the attitudes of the students and enhancing their respect for the school and the laws.

Faron Girls Secondary School - Tulkarem

The school was able to create a model school by enhancing human rights and concepts of international treaties and civic education through raising awareness on human rights law and on the relation between rights and obligations. The positive effect of implementing laws on individuals and communities was also highlighted.

Kufor Soor Secondary School - Tulkarem

The school succeeded in raising students' awareness on the laws and the process of elections through interactive methodologies and role-playing of the entire elections process in a democratic manner.

Um Al Shuhada'a Boys Secondary School - Bethlehem

The school worked on its objective to raise the students' awareness on Human Rights Law and the relation of human rights to rule of law (human rights are protected by the rule of law), as well as highlighting human rights organizations and their role.

Marda Girls Secondary School – Salfit

The school was awarded for dealing with environmental pollution in a legal manner according to constitutional articles that highlight the rights of the citizen to live in a clean environment. This was followed by a voluntary work day to clean the streets, and a lecture for mothers titled "Together for a Clean Environment" which was prepared and delivered by the students. The school conducted interviews with officials to solve this issue, and prepared awareness flyers for the community and a play titled "Clean Environment."

Sample of the Awarded Writing Pieces

Short Story:

Democracy in the Forest

By Fatima Abed Rabbo – 7th Grade, Al Jeeb Boys and Girls School

The story describes the animals in the forest living a hard and cruel life due to the cruel ruling of the lion – the king of the forest. Supported by a group of wolves and hyenas he ruled the animals and made them pay taxes every year in return for allowing them to live in the forest. Whoever disobeyed was punished. One day, a wise rabbit that comes from a democratic environment comes to live in this forest and is surprised by the conditions of the animals and thinks of ways to improve matters, especially when all the animals are afraid to support him on his new standing. He convinces the lion, the hyenas and wolves to hold elections, and asks all the animals to elect them so that each gets the exact number of votes. When the result comes out, the three delegates have a big fight which weakens their hold on animals, encouraging the rest of the animals to become courageous and strong and to call for new elections based on democracy and rule of law and respect for others. The animals elect the wise rabbit to be the king of the forest.

Rule of Law Script

Is Freedom of Opinion Our Right?

By Jannat AbdulSalam – 6th Grade, Der Jreer Girls Secondary Schoool

This script is a conversation between a girl and her mother. The girl describes an incident at school which contradicts the civic education concepts they have learned. The teacher assigns four girls to be in charge of the classroom without holding elections, which is against civic education principles the students were taught. The girl according to the script stands up and confronts the teacher telling her that what she has done is not acceptable according to the concepts instilled in them. The teacher does not take kindly to criticism, accusing the student of being rude.

Teachers recognized during Rule of Law Award Ceremony

Students from across the West Bank take part in the Rule of Law competition and ceremony.

Interview with Dr. Basri Saleh

Assistant Deputy Minister for Planning and Development

Assistant Deputy Minister for Planning and Development Dr. Basri Saleh

Question: What are the mechanisms used to reinforce civic education programs in schools and improve the perceptions of teachers, students and parents of the curriculum?

Answer: One of the mechanisms currently being conducted is a comprehensive review and evaluation of the civic education curriculum which includes the curriculum's outline, teacher's guide, analysis of books, teaching methods, and then planning and evaluation. This comprehensive review is being conducted through the Ministry of Education and Higher Education's General Directorate for Humanities and the General Directorate for Educational Supervision in coordination with the USAID funded Netham Project. Surveys of Palestinian schools were carried out in cooperation with Netham in order to gauge information regarding opinions and attitudes of school principals, civic education teachers and ninth grade students. The idea is to get feedback regarding the civic education curriculum from different perspectives.

In addition the Ministry of Education and Higher Education is working on finalizing a reference guide manual for civic education teachers which will help them follow modern teaching methods based on classroom and extracurricular activities and events.

Question: Many people reading through civic education books note that they present ideal philosophies. Can you comment on this?

Answer: I believe that the civic concepts and values presented in the civic education curriculum are not idealistic concepts in the literal sense; they are in reality concepts and values of life which the students practice in different ways in their daily life. However, the problem is in the traditional methods of teaching this subject which is based sometimes on routine-learning and memorization. Civic education is one of the materials that should not be taught according to traditional methods as the main objective is to help students acquire positive skills which reflect upon their behavior and their relationship with their peers, family and the people surrounding them.

Question: How is it possible to incorporate the concepts of civic education with other curricula such as Islamic Education, Arabic Language, art and sports, etc…?

Answer: This issue is very significant and needs to be studied thoroughly. The civic concepts and values which the students study in the civic education classrooms do exist and students learn civic education in other curricula such as Religious Education (Islamic and Christian), Arabic Language and Physical Education. When we talk about equality, non-discrimination, respect of the other's opinion, tolerance, respect for rule of law, concepts of justice, democracy, transparency, accountability and rights- all these concepts are not only contained in civic education teachings but also in teaching other curricula. Teaching these concepts serve one goal which is for students to acquire positive skills and attitudes that would help them in their lives, while at the same time enhance the perception of the educational system to parents and the importance of civic education in the lives of students.

Question: How did the cooperation between the Ministry of Education and the USAID funded Netham Project contribute towards reinforcing the principle of rule of law through civic education programs?

Answer: There's no doubt that the activities implemented by Netham in the Palestinian Justice Sector in coordination with the Ministry of Justice and the Supreme Judicial Council contributed significantly towards laying out the foundations of justice and rule of law in Palestine. I view the accomplishments in this field, such as reducing the judicial backlog, rapidity of case disposals, training of judges and court employees, as greatly enhancing the image of justice in Palestinian society.

Regarding reinforcing the rule of law through civic education programs, the Ministry of Education and Higher Education had a successful experience through the General Directorate of student activities coordinated with Netham. A creative writing competition which included short stories and play scripts was conducted among students for elementary children in Palestinian schools on subjects pertaining to justice, rule of law and democracy. The aim of the competition was to raise students' awareness regarding these concepts and incorporate them in the school activities and programs. The creative writing competition was widely promoted by distributing posters and brochures in all the schools. At the end of the competition, winners were awarded prizes. In addition surveys before and after the creative writing competition indicated that there was an improvement in the students' understanding of the significance of justice and rule of law in the society. We at the Ministry of Education and Higher Education encourage such initiatives; we support and provide all means so such an activity can succeed. The Ministry of Higher Education urges schools to conduct such competitions at the school level as well as the district level. We will continue to work on developing the civic education curricula and teaching methodologies, to improve the values of democracy, justice and rule of law and respect for human rights.

Question: Are there future plans for the Ministry to implement projects that aim towards reinforcing the law with Netham's assistance?

Answer: After completing the evaluation of the curriculum and the civic education reference guide as well as reviewing the findings of the pre- and post- survey conducted for the creative writing competition, the Ministry will determine future steps to take. However, we are determined to continue what we have started and we will work hard to develop the civic education curriculum based on the recommendations that were reached. We will definitely enrich the curriculum with civic values and concepts whereby the values of justice, democracy and rule of law will be emphasized.

Netham Grantee Aims to Train Cadre of Judicial Reporters

A Netham grant was awarded to AMIN, a Palestinian Civil Society Organization dedicated to media awareness and training journalists. The purpose of the grant was to train journalists to become specialists in covering judicial and rule of law affairs.

The grant titled "The Judicial System in Palestinian Media" focused on raising public awareness of the courts and the judiciary through the media. Journalists were trained on such topics as legal terminology, how to cover court proceedings, communications law as well as an orientation of their civil rights as journalists.

AMIN's Project Manager, Saida Hamad provided an overview of the trainees' experience and stated, "during court sessions, we tried to draw the reporter's attention to certain perspectives in writing and media coverage to take the human and social dimension into consideration." She also added, "Journalists were provided technical training on the Palestinian law, media law and international laws, as well as addressing the ethics of reporting, and the importance of building positive relations with judiciary staff."

Through this grant, judicial reporters have proactively covered court news and gained the interest of the public in issues relevant to rule of law. AMIN's feedback on this grant activity indicates there is increasing interest in issues pertaining to justice and security, which has led some media outlets to upgrade their coverage of judicial issues.

Naela Khalil, an AMIN reporter who writes for Al-Ayyam Newspaper has consistently noted high readership of her coverage of the judiciary. One article written by Khalil on municipality courts was the mostly widely read Ayyam article for that day. Khalil noted: "I was pleasantly surprised when I saw the Al-Ayyam page and found that my article was the mostly read piece on that day. Although covering judicial issues is really new, it managed to draw the readers' attention, which I consider progress on the personal as well as the professional level."

On a different track from that taken by newspaper reporters, AMIN's radio correspondents chose to focus on the role of the media and drama in promoting rule of law, in addition to addressing court decisions on crimes of theft, deception and treason.

Through this grant, 36 radio programs were produced and broadcasted as well as 21 TV programs. In addition, 106 newspaper articles were posted on AMIN's website and in different Palestinian media outlets. Project achievements also include the creation of specialized programs on the judiciary which include **"Qadaya Al-balad" "Town Issues", "Rufi'at Al-jalsa"** or ***"Court's Adjourned" and "Al share' Bihki" "Street Talks"*** on Balad Radio, Ajyal Radio, and Wattan TV.

Director of USAID's Democracy and Governance Office, Chris La Fargue during AMIN's grant launching event

Netham Grant to Bani Naim Charitable Society Tackles Tribal Law System

Netham Grantee Bani Naim conducts town hall meetings

Bani Naim Charitable Society (BNCS) is a Palestinian civil society organization based in Hebron that was established in 1965 to serve the community in the fields of education, health, and capacity building for women as well as addressing environmental issues. In the period of May through August 2009 BNCS implemented a four-month Netham grant focusing on "The Importance of Implementing Laws under the Extended Family System in East Hebron District."

Bani Naim Director Islam Manasrah noted that this project is significant because Palestinian society in general, relies on families and clans to solve disputes among citizens-- particularly in the Hebron area where tribal law is dominant. BNCS focused its project on the eastern part of Hebron, in order to enhance the culture of respect for the formal justice and Palestinian court system.

At the conclusion of the four month project, a Memorandum of Understanding (MOU) was signed by many family leaders to adhere to the law in resolving disputes. The Memorandum of Understanding was based on a series of meetings and workshops that were held in east Hebron during the project. The MOU was signed during a large public event attended by over 400 guests including over 50 family leaders who signed the MOU in East Hebron district that included Sair, Bani Naim and Al-Shyoukh. "The number of family leaders who signed the memorandum was a great indicator of the success of the project," said Manasra.

The project targeted different layers of Palestinian society including volunteers, teachers', political leaders, family leaders and local organizations from the Hebron society. This achieved one of the project's major objectives of raising awareness of the community.

Manasra noted that teachers were one of the most important groups of participants and their participation "should be highlighted considering their influential role in disseminating the idea of resorting to courts in solving disputes instead of tribal law among school students, who represent a large proportion of the Palestinian society."

Key Points of the Memorandum of Understanding

Memorandum of Understanding between Tribal Leaders of the Eastern Area of the Governorate of Hebron

This Memorandum of Understanding was formulated to defend human rights. It addresses all good people in Palestine, in general, and people of Hebron, in particular. It came as a result of numerous unjust and unfair rulings that have become the norm in this area. In some cases people became speechless seeing such unfair practices and violations. The efforts of the people of Bani Na'im, Sa'ier and Shyoukh villages who rebelled against some of these negative customs culminated in this memorandum which aims to enrich discussions on the public and private levels.

This Memorandum aims to give the public a clear picture of some of the negative practices in the tribal system and hopes to wake the tribes out of their long-lasting sleep . We, in Palestine in general, and Hebron in particular, follow such tribal customs and traditions in organizing our life and in the way we solve our problems (penal, civil, and criminal).

Terms of the Memorandum of Understanding

The Role of Law and Authority

1. The law is the only means that shall organize people's life. Consequently, legal culture shall be enhanced in the community; at schools, and organizations. It will be necessary to introduce the subject of law in the curriculum, and to issue publications and periodicals on rights, obligations and penalties as stipulated by the law, especially civil law.
2. Deterring those who break the law, whereby the concerned authorities shall apply the law equally.
3. Activating the role of courts and not stalling in issuing rulings in the accumulated cases.
4. Fighting against corruption and discrimination among people in all aspects of life especially on the executive, judicial and legislative levels.
5. Enhancing the rule of law and fairness in murder cases.
6. Reducing tribal punishments and documenting them, and incorporating positive elements of the tribal system into the law.
7. The necessity of working on the principle of actually separating the three authorities.
8. Work on eliminating favoritism in the application of the law.

9. Coordinating and organizing responsibilities of reformers through the Department of Tribal Affairs and the Ministry of the Interior, the Governorate and collaborating with reformers, and punishing those who harm them.
10. Official parties shall cover expenses that tribal leaders pay when asked to settle problems.

Role of Tribal Leaders

11. Canceling the concept "Bloody Outburst" [Fawret Damm] completely, and abiding by what al- Mighty God says in the Holy Koran "No one shall bear sin of others."
12. Those who attack on the grounds of bloody outburst shall be held fully responsible financially and legally. Any aggression that is not in self-defense is considered a misdemeanor or a crime.
13. Expulsion in a murder shall be applied only to the killer, (the criminal) and those who participated in the killing.
14. Using weapons against one another is not allowed, and those who threaten one another with weapons shall be punished.
15. A thief shall be considered an enemy to the people and doesn't deserve mercy nor support nor covering up for him or purchasing what he robbed.
16. Attacking peaceful houses is prohibited and all those who collaborate shall be punished severely regardless of being individuals or gangs.
17. In cases of moral crimes such as adultery, rape and acts contrary to modesty, the perpetrator shall be repudiated by his family. The family of the victim shall not attack the perpetrator's family or their funds or properties as a reaction to the crime. The Executive Authority and Judiciary are requested in this case to apply the law and punish the criminals.
18. In any conflict between members of the same family, the role of the family is to reconcile parties.
19. The tribal system shall treat parties equally regardless of the power or the weakness of either party.
20. Enhancing the work of reformers to put an end to agitation and to reconcile matters.
21. Voiding previous settlements is not permissible. Revenge, especially against innocent people is not allowed. Voiding settlements is against the law and religion.
22. Reconciliation should be carried out by professionals who are qualified culturally and financially known for their good conduct. It is not a title or something to be handed down from father to son.
23. Children are not subject to expulsion nor shall be prevented from joining schools. Hatred among children is frowned upon. This is against religion and law.
24. Women are mothers, sisters and daughters. They cannot be subject to expulsion or to punishment. However, a woman who commits a crime shall be held solely legally responsible.
25. In crimes against morals such as adultery, drinking alcohol or taking drugs, males and females are held equally responsible before the law. It's not accepted that some families punish females and fail to notice the male.

Tribal leaders sign a Memorandum of Understanding

26. A girl or a woman who is subjected to an assault or rape and then informs her family or the authorities shall deserve our respect and protection. Criminals shall be punished and victims shall not be repudiated. This also is applicable to children.
27. Repudiating others and attributing them with names because one of their relatives committed a crime of honor such as rape or treason is not acceptable.
28. Ad- dikhala [a sum of money paid to the injured party when someone commits a serious crime whereby the perpetrator is subject to the demands of the injured party]. Ad- dikhala could be adhered to in these cases: قتل منكور undeniable murder, Sayhet Ad-duha (attacking peaceful houses at sunrise), and mutilation of the face.
29. Palestinian people need to apply only good tribal traditions, maintaining kinship and enhancing good links with the Arabs, particularly those who share same traditions and habits.
30. Encouraging the value of maintaining the rights of neighborhood. By doing so, we do not only abide by religion and law, but we reduce problems since most of them take place between neighbors.
31. Tribal leaders shall try to deal with small problems before they exacerbate.

This memorandum of understanding is to reinforce rule of law, to safeguard rights, freedoms, social security and peace and to emphasize the necessity of activating and complying with all of its content pursuant to God's words, "People shall cooperate to do good not to sin and commit aggression."

This Memorandum of Understanding was signed by 57 tribal leaders.

Netham Grantee Produces Film "Spider Web" on Corruption and Rule of Law in Palestine

Through a Netham grant, TAM – Women, Media, and Development produced "Shibak Al-Ankabout" which translates to "Spider Web,"a 90-minute film that tackles the sensitive issue of corruption among police officials and the state of rule of law in Palestine. TAM's Executive Director, Suheir Farraj noted that the film concept came as a means to address this important issue to Palestinian society. TAM believes the media is an imperative tool in highlighting community issues.

As a Palestinian non-governmental organization, TAM – Women, Media and Development is dedicated to addressing social and women's issues. With funding from the USAID-Netham Project, TAM successfully produced a film that focused on improving respect for rule of law in order to achieve justice. "The film achieved its objectives, especially those related to addressing corruption and encouraging citizens to confront it," said Farraj.

"Spider Web" was directed by Rifat Adi, and written by Saleem Dabour. The movie premiered on September 9, 2009 at the Grand Park Hotel-Ramallah with an event that was attended by over 300 guests, including Howard Sumka, USAID Mission Director; Ali Khashan, Minister of Justice; Issa Abu Sharar, the Chief Justice; Ahmad Al-Mghani, the Attorney General; Kholoud Daibes, Minister of Tourism; Siham Barghouthi, Minister of Culture in addition to many Palestinian figures, the film crew and the press. The film production included 47 actors/actresses and was extensively covered in local and international media outlets and sparked a debate on the web as well in the community as to extent of corruption in security services and in Palestinian society.

"Shibak Al-Ankabout" or "Spider Web" will also be screened on ten local TV channels, satellite channels as well as at universities and cinemas across Palestine. The film is also expected to be screened at international and Arab festivals.

USAID Mission Director Howard Sumka, Director of USAID's Democracy and Governance Office Chris La Fargue and Netham staff attended the premiere of the film "Spider Web"

Screenwriter Dabour stated: "The film addresses sensitive issues including crimes such as drugs, car theft, murder, illegal land trading and arms dealing all due to the absence of law. The film also stresses the importance of protecting Palestinian society from corruption, in a period when Palestinians are facing challenges on all fronts."

The film producers acknowledged that the film could not have been possible without the support and assistance of the Supreme Judicial Council, the Palestinian Police and the National Security Forces who provided the facilities for the film crew. They also enabled TAM to produce a high-quality film, which in its turn will be of great assistance in conveying the message of respecting the rule of law.

The film brought attention to the sensitive topics of corruption and the state of rule of law. Ali Khashan, Minister of Justice remarked "the film is a courageous step; it highlights the reality of the security service, the Palestinian Judiciary and the security chaos during an earlier period of time."

Nabil Isifan, Chief of Party of Netham noted that "the film offers a good example of dealing with the situation of the absence of rule of law and encourages Palestinian society to seek rule of law." He goes on to say that citizens who are subjected to oppression should resort to the judiciary to gain their rights.

Author and script writer, Salim Dabbur summed up the essence of the film, "'Spider Web' represents a resounding scream for the need to treat everyone equally before the law, regardless of age and social status."

(Left to Right) the Minister of Justice Ali Khashan, the Attorney General Ahmed Al Mghany, Al Quds University Dean of Law Mohammed Al Shalaldeh, Al Quds University Law Faculty member Amin Habbas, and USAID Democracy Specialist Jill Gulliksen during the premiere of «Spider Web».

New Course Curriculum Introduced at Al Quds Law School with USAID Support

Al-Quds University, School of Law Faculty takes part in study tour to the United States

Since the USAID-funded Netham Rule of Law Project began implementing the Legal Education Program in the fall of 2008, Al Quds University (AQU) has successfully introduced new curriculum to students including four new courses--Legal Writing, Legal Ethics, Moot Court, and Legal Information Technology.

A needs assessment conducted in the summer of 2008 by Netham and Al Quds Law School stakeholders identified the need for additional skill-based courses to help better equip aspiring lawyers with the necessary practical tools to be successful legal professionals. Williams and Mary Law Professor and Netham Curriculum Development Consultant Christie Warren observed "it is common for law school programs to focus primarily on theoretical law concepts while often under-emphasizing the value of practical 'real world' skills associated with practicing law. Over the last 20-30 years U.S. legal programs have revamped course curriculum to address increasing efforts on the practical elements that focus more on legal research, writing, and preparing oral arguments through moot court courses."

In this regard, Al Quds Law School faculty and Netham experts, who have served as law faculty, have worked together to revamp the legal curriculum at Al Quds Law School. The new curriculum has an increased emphasis on developing students' practical skills that are necessary to successfully practice law. As a result, new courses have been introduced to build fundamental skills in the areas of legal research, writing, and the mechanics of trying real cases in a court of law.

Legal IT was introduced as a course during the spring 2009 semester to provide students with basic knowledge of computer software applications and to build legal research skills for accessing electronic legal databases and online law journals. The course also served as a valuable opportunity for many students to build IT skills which are critical for aspiring lawyers to use the internet and e-mail to facilitate legal transactions, research and professional communications. Over 60 students successfully completed the course during the spring semester and over 80 students have enrolled for the course for the current fall semester.

Through project support, a new Legal Writing course was also introduced during the fall of 2009 which will help students to understand and consider the legal audience for whom they are writing. The course will also help students to build legal drafting skills in preparing legal documents, drafting contracts, argumentation, arbitration, correspondence and briefs. Building on work from a previous Legal Clinic course, a new Moot Court

Quds University faculty and students take part in a Legal Education training program

Faculty members of Al Quds University during US study tour

class was also introduced in the fall of 2009, and the course is designed to enhance students' skills in legal analysis, writing and oral advocacy. This course requires each student to prepare a legal brief and present an oral argument during a mock case before a panel of judges. Currently over 50 students are enrolled in the Legal Writing and Moot Court course. Finally, a Legal Ethics course was also developed and Netham provided international expertise to assist the law school in drafting the teaching materials, syllabus, and the course outline.

Al Quds University Dean of Law along with four faculty members during US study tour

To further develop faculty skills in Legal Writing and Legal Ethics, USAID-Netham sponsored a study tour for five Al-Quds faculty including the law school dean. The study tour was designed to allow the faculty to observe the Legal Ethics and Legal Writing teaching methodologies in the United States and to learn from best practices. The two-week study tour took place in mid-October with the faculty traveling to the Lewis and Clark School of Law in Oregon for the first week. The second week of the study tour was sponsored by the State Department's Voluntary Visitors Program. During this period the delegation learned more about the American judicial system and visited other U.S. law schools including William and Mary, Fordham, and Benjamin and Cardozo. Discussions took place regarding the possibility of future cooperation between the law schools, especially with the exchange programs for faculty and students and conducting moot court competitions that could be held using video conference technology.

In a speech to the law students at Lewis and Clark School of Law, the Dean of AQU Law School, Mohammad Shalaldah thanked Netham and USAID for their support in enhancing the legal education program at AQU and said: "without the help of Netham and USAID it will be hard for us to achieve our goals in developing legal education in Palestine." The dean added during a farewell dinner with the law professors at Lewis and Clark "we will leave Portland carrying with us a solid vision about the legal education in the United States and the kindness of the American people, and we will share this experience with our colleagues upon our return back to Palestine."

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Developing the Palestinian Judiciary and Legislative Constraints

By Former Chief Justice Issa Abu Sharrar

And since I am a believer in the need of reinforcing the independence of the judiciary and developing it so that an independent and active Judicial Authority may be formed to carry out its work without any interference in the affairs of this authority, keeping in mind the need to maintain the judiciary's independence, and after stepping off from my position as Head of the High Court and Chief Justice, having reached retirement age - which does not allow me to continue with my judicial post - and without having any direct or indirect personal interest, I am encouraged to talk about the development of the judiciary as a citizen who is keen to support the rule of law and its independence. I am also encouraged to continue demanding the necessity of reviewing the laws of justice in general, and the laws of the Judicial Authority and the Formation of Regular Courts taking into consideration that not reviewing the legislations that regulate justice is an obstacle hampering the completion of the process of developing the Palestinian Judiciary. Added to this, the laws prevented the development of the administrative and clerical systems of the courts.

The process of developing the judiciary and its authority are not complete without creating the legal tools which help develop the administrative apparatus of the Judicial Authority including administrators, clerks, notification officers and researchers.

Since we are talking about the administrative system of the courts, I see that the separation between the Judiciary and the administrative system of the courts infringes upon the independence of the judiciary and opens the door before the Executive Authority to interfere in the work of the Judicial Authority.

To modernize the Judicial Authority and upgrade the courts which will lead to timely disposals of cases and reinforces the public's confidence in the Judiciary, the Procedures Laws and the Evidence Law should be reviewed.

Since this article does not have enough space to shed light on the flaws of the Procedures Laws, whether the Law of Criminal Procedures or the Law of Civil Court Hearings, we will confine ourselves to highlighting the Law of the Judicial Authority and the need to review this law and several of its articles and provisions, which helps to develop the Judiciary and reinforces its independence. Moreover, the process of updating the law constitutes a key factor helping towards protecting it from the elements that are not capable or eligible anymore for advancing the judicial scale.

Despite focusing on the Law of the Judicial Authority, we should point out that the Law of Criminal Procedures and Civil Court Hearings has proved through application that it is in need of review and reconsideration and that its flaws were the direct cause for the judicial backlog and the untimely disposal of cases. Therefore, legal stipulations should be clear enough and should take into consideration the revolution of communications and electronic mail which makes it imperative for us to find legal tools to help courts utilize this modern technology to overcome the obstacles that stand in the way of the timely disposal of cases.

As for the Law of Regular Court Formation, which is the main law regulating and formulating courts, it was drafted to serve existing legal structures. Consequently, it lacked the most basic characteristics that must be available in legislation-- objectivity and commonality. Therefore, and without dwelling too long over this law which will be researched separately and thoroughly, and in reference to the Judicial Authority Law (1) of 2002, this is the main law regulating the judiciary and has been complied with since its publication in the Official Gazette on May 18th, 2002. It should be noted that compliance with the Judicial Authority Law started before the Palestinian Basic Law which came into effect on the date of its publication in the Official Gazette, July 7th, 2002, while compliance with the amended Basic Law began on March 19th, 2003.

Article 118 of the amended Basic Law stipulated: "All laws which are not in conflict with the Basic Law, laws and decisions effective in Palestine before decreeing this law shall remain valid until amended or annulled in compliance with the law."

Furthermore, Article (119) of the Basic Law stipulated the following: "All laws that contradict with the Basic Law become void." There are many articles in the Basic Law which contradict with the stipulations of Articles (97/98) of the amended Basic Law which have reasserted the independence of the Judiciary as an authority, and the independence of the judges.

Based on this, the articles stated in the Judicial Authority Law gave the Minister of Justice powers that contradict with the Basic Law, and hence, they are unconstitutional articles nullified by Article (119) of the amended Basic Law, the provisions of which we have previously alluded to.

Additionally, any article that undermines the independence of the judges is nullified by means of the provisions of Article 119 of the Basic Law. Consequently, the controversial debate over the overlapping of authorities is considered as such outside the stipulations of the law and the harm done is more than the good, and in some cases it is a word of truth but with negative intentions.

Former Chief Justice Issa Abu Sharar

Consequently, and to put an end to the overlapping of powers which constitutes one of the obstacles impeding the development of the Judiciary, the Judicial Authority Law has to be reviewed leading to reinforcing its financial and administrative independence so as to prevent the interference of the Executive Authority in its affairs.

Going through the Judicial Authority Law, we will find that the national interest requires that we review several of its articles and provisions, particularly that with time we have encroached upon the legal structures that existed before drafting of this law, and which the legislation was keen to maintain. Consequently, the law lacked its basic characteristics of objectivity and commonality.

To sum up, the Judicial Authority Law as it stands is one of the obstacles that have prevented the completion of development of the judiciary. It has also prevented the advancement of the Supreme Judicial Council's institutions and prevented refining the Judiciary from outdated elements whose continued presence in the judiciary is a reason for the public's shaken confidence.

And so that we will not dwell too long on explaining the shortcomings of the law, and for the sake of brevity we will summarize the laws that have to be reviewed:

1- We wonder what is the need for Chapter Two of the law related to the courts, their types and grades since the legislator has decreed a specific law on courts which is the Court Formation Law No. (5) issued in 2001.

2- There is a need to review many of the rules and provisions of Chapter Three of

In the next issue:

Phase III Court Staff Training begins

Ceremony held at Al Quds University Law School to inaugurate Library

Phase II of Netham's Grants Program begins

Training held in Jordan for newly appointed judges

SJC Judges participate in international conference in Turkey

the law, in general and articles (19) and (20), in particular. Practice has proven that it is impossible to apply the compulsory paragraph of Article (19) related to the conditions that should be met by whoever is appointed as Head of the Appeals Court.

Also, as indicated in Article (20) of the law, the period of 10 years and 15 years of practicing law stipulated in Article (20) is insufficient as a prerequisite of judicial appointment in the High Court or for the post of Head of this court. Our legislator, upon quoting these clauses from the Egyptian laws, did not take into consideration the levels of progress in the legal profession according to the Egyptian laws.

In addition, there is a need to review the rules related to the temporary commissioning of judges based on the situation of the judiciary in Palestine which suffers from shortage in the number of judges and gaps in their ranks.

It is also essential to review the salaries and increments of judges through issuing a particular scale for judges that takes into consideration their grades, and to go back to the grading system instead of the job title system and to establish legal incentives that encourage those who are skilled and qualified to accept a judicial post.

3- The material contained in the Section One of Chapter Four of the law related to the Supreme Judicial Council and its formation and jurisdiction, should be reviewed leading to broadening the Council's formation by adding legal structures enabling the council to include members from the first and second degree courts, as well as the Head of the Judicial Inspection, and annulling the membership of the Ministry of Justice Deputy.

It is also essential to define clearly and accurately the jurisdiction and authority of the Council. The quorum of the Council sessions should be reviewed, as well.

In relevance to the Section Two of Chapter Four of the law on judicial inspection, the post of the head of the Inspection Department should be separated from the post of the head of the technical office due to the difference in the nature of the two posts. The ranks of inspectors should be reviewed to include judges from the High Court and heads of the First Instance Courts so that the inspection will be more effective.

As for Section Four of Chapter Four of the law on the accountability and disciplining of judges, the stipulations relevant to forming a disciplinary council needs review to allow forming it from members and non-members of the Supreme Judicial Council. This is due to the fact that what applies to the Egyptian judiciary does not apply to the Palestinian judiciary regarding numbers and accumulated experience.

Grievances and appeals of the decisions taken by the disciplinary council should be reviewed; moreover, grievances should not be linked to the provisions of Article (45) of the law.

4- Article Three of the law on the budget of the Judiciary does not achieve the financial independence of the Judicial Authority which calls for re-drafting it. Added to this, the prepared draft budget and revenue expenditure should be included under one budget item.

5- Legal tools should be found to allow the Judicial Council to pension off judges before they reach retirement age as stipulated in Article (34) of the law.

Furthermore, the national interest requires the introduction of legal provisions that allow transferring unqualified judges to other posts as is the case of Egyptian laws.

6- Finally, the Judicial Authority Law is deficient related to court employees, and considering the particularity of court work and the Judicial Council departments, special rules should be introduced to develop these rules related to appointments, conditions , discipline, etc. as is the case with the Egyptian Judicial Authority.

These are some points which shed the light on the obstacles impeding the development process of the Judiciary, in particular the legislation. It is only a viewpoint which has come as an outcome of practical experience.

The authors views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development

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