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West Bank and Gaza

NETHAM Rule of Law Program Justice and Enforcement DFD-I-01-04-00173-00

Implemented by DPK Consulting

Second Quarterly Report
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1. EXECUTIVE SUMMARY

The NETHAM Justice and Enforcement Project entered its second quarter having established a solid foundation to carry out its mandate to professionalize the formal justice sector and improve the enforcement of laws and court decisions. Accomplishments in the beginning of the second quarter included the continuation of the efforts to increase the security of two pilot justice institutions in Gaza and Ramallah and continued progress in developing judicial sector planning and reform. The activities undertaken included a study tour to Jordan for the leadership of the Judicial Police force, installation of courthouse security equipment in Ramallah and Gaza and training of staff in its use, a public awareness campaign on courthouse security issues, and the conduct of a needs assessment at the Notifications Department.

On January 25th Hamas won the Palestinian Legislative Council election and the subsequent political developments resulted in, an order from USAID/West Bank Gaza not to undertake new tasks, quickly followed by instructions in early February to cease all activities involving contact with Palestinian authorities.

The election results seemed to catch both the ruling Fatah Party and Hamas off guard. Hamas leadership stated publicly that they had expected a victory but that they had not expected to be the majority party. Political analysts, as well as ordinary Palestinian citizens, noted that the results, to a large extent, came out of frustration and protest over the widespread corruption apparent in Fatah and various government institutions. Scrambling to make the adjustment to their new place in government, Hamas announced their interest in forming a coalition government with Fatah and the other parties and factions; but after internal deliberations, Fatah decided not to take part in the government. The rift between the two parties was clear at the first Palestinian Legislative Council (PLC) sessions where disputes arose over PLC administrative procedures and the legality of laws passed by the previous PLC. The new government was sworn in only a few days before the end of this reporting period and various ministers, including the Minister of Justice, were not handed their portfolios until March 30th so it is too early to comment on their performance. With various governments cutting off ties to the new Palestinian Authority (PA) and redirecting assistance to humanitarian programs, the government is expected to face some tumultuous days ahead.

In light of the election results and USAID restrictions on providing direct assistance to the PA, which in the case of NETHAM implies assistance to the MOJ, NETHAM hopes to be able to work with the USAID Mission to restructure the Project to work with the Supreme Judicial Council (SJC), which is an independent judicial body. To that effect, NETHAM outlined to USAID how project activities can be restructured to re-direct support from the MOJ to the SJC. Even prior to the election results, NETHAM was planning to recommend this shift to USAID based on the Constitutional Court's decision to revert to the 2002 Judiciary Law which grants authority over the courts to the SJC.

Then, on February 5th President Mahmoud Abbas issued a Presidential Decree that solidified the SJC's control over the courts, further marginalizing the MOJ. In its 27 articles the Decree reiterates the independence of the SJC and Attorney General's (AG) offices and codifies the SJC's and AG's jurisdiction over court administration issues. The Decree clearly transfers authorities previously granted to the Minister and Deputy Minister of Justice to the SJC and the Chief Justice and establishes a Judicial Inspection Department, which will be part of the SJC and chaired by a High Court judge, and technical and judicial inspection departments within the AG's

Office to supervise the performance of the AG and prosecution. NETHAM translated the Decree in its entirety and sent it to USAID in February.

As a result of these new authorities and directives, the Chief Justice requested that NETHAM and USAID provide him with the support and technical assistance necessary to reform the SJC's administration. The Chief Justice has already initiated this reform process by appointing new judges and retiring others in order to bring new blood into the courts. The Project has also received requests from the Attorney General, who is currently taking on a high profile role in investigating issues of corruption in the PA, for assistance to his office and the general prosecution.

At the end of this reporting period, the Mission issued "no contact orders" between contractors and all government institutions, including the SJC. NETHAM is hopeful that the rule of law assistance program can be restructured and resume full operations in the near future to support the building of a fair and independent judiciary in the West Bank and Gaza.

2. SUMMARY OF SIGNIFICANT ACHIEVEMENTS DURING THE QUARTER

NETHAM's most significant achievements during the reporting period are summarized below. These activities are presented in more detail in Section 3 of this report.

2.1 OVERALL PROJECT SUPPORT ACTIVITIES

- NETHAM's first newsletter was distributed to counterparts, judicial sector institutions, and civil society organizations.
- Interviews were conducted for vacant staff positions, which will allow a rapid hiring of new staff when and if the project receives formal approval to resume activities.
- Procurement actions were completed and awards prepared, which will allow a rapid deployment of the required equipment when and if the project receives formal approval to resume activities. The procurement included the equipment support for the MOJ as envisioned in the statement of work.

2.2 COMPONENT 1: PROFESSIONALIZING THE FORMAL JUSTICE SECTOR

- Prior to the “no-contact” order, several meetings were held with the Chief Justice and the Attorney General to discuss project support. The Chief Justice and Attorney General subsequently sent letters to NETHAM outlining their requests for Project assistance in strengthening the SJC and AG offices discussed in the planning meetings.
- Plans were finalized for International Computer Driving License training courses in Ramallah and Gaza for MOJ and court administration staff.
- NETHAM’s first annual work plan was translated into Arabic and sent to the MOJ for review.
- Project consultants William Davis and Salah El-Bashir laid the foundation for a judicial sector strategic planning process in meetings with the Chief Justice, the Attorney General, and the President’s Legal Advisor.

2.3 COMPONENT 2: STRENGTHEN THE ENFORCEMENT OF LAWS AND COURT DECISIONS

- A successful study tour to Jordan was completed by the Judicial Police Director and his two assistants where they met with Jordanian counterparts and studied the Jordanian experience in working with the judicial police.
- Two consultants, a Jordanian and an American, worked closely with the judicial police team during the Jordanian study tour and helped finalize a plan of action for developing the Judicial Police force. The American consultant, Michael Hayes, traveled from Jordan to Ramallah with the Acting COP to provide hands on training for the Judicial Police.
- A workshop was held via video conferencing between Ramallah and Gaza for Enforcement Officers, SJC and MOJ representatives to discuss the needs of Enforcement Officers and how they can improve their work and the enforcement process.
- A training session was conducted for 12 judicial police officers by Mr. Hayes on courthouse security and search procedures.
- A public awareness campaign on courthouse security and ban on weapons was conducted in the local press for five consecutive days.
- Courthouse security equipment was installed in Ramallah and Gaza and staff trained on its use. Equipment includes metal detector, hand wands, and a Closed Circuit TV system.
- A needs assessment was conducted for Notification Department and Enforcement Units.
- A plan was developed to involve Birzeit University Institute of Law in implementing project activities, particularly those related to enforcement.
- A translation of the Presidential Decree on amendments to the 2002 Judiciary Law and Enforcement Law was prepared and sent to USAID.

3. SPECIFIC ACTIVITIES AND RESULTS

3.1 OVERALL PROJECT SUPPORT

Project Newsletter. After receiving USAID approval, NETHAM's start-up newsletter was printed and distributed in the West Bank and Gaza to judicial sector counterparts and civil society organizations, as well as USAID projects working in the justice sector. The newsletter contained background information on NETHAM, contact information, coverage of the launching ceremony as well as other project news and photos.

Project Administration. NETHAM sent USAID an approval request for procurement of project vehicles. Due to the project status, this procurement is on hold until USAID approval is received. An additional three computers were procured for the Project during this quarter.

Project Staff/Hiring. After obtaining USAID approval, NETHAM's Translator/Editor Reem Wahdan began work this quarter. Candidates were also interviewed for the Accounting Assistant and Inter-institutional Development Manager openings. Due to the review of the overall USAID assistance program, NETHAM has been asked to not fill any positions at the current time. Also this quarter, Ali Al-Masri, the Component 2 Leader, informed the Project that he will not be able to take the position. In addition, NETHAM Gaza Director, Tarik Dirawi left the Project at the end of February for personal reasons. His position remains vacant at the current time.

3.2 COMPONENT 1: PROFESSIONALIZING THE FORMAL JUSTICE SECTOR

Supreme Judicial Council. Several meetings took place between NETHAM and the new Chief Justice, Issa Abu Sharar. The Chief Justice indicated that Project efforts should be re-directed to the SJC in light of the 2002 Judicial Law that is currently being enforced, which transfers authority over the courts to the SJC. The Chief Justice stated that in order for an independent judiciary to prevail, the MOJ and the Executive should not interfere in the judicial branch of government. The Chief Justice then sent a letter to NETHAM requesting Project and USAID support in strengthening the SJC.

The letter requested that the Project continue to support and assist the SJC and focus its assistance according the new Chief Justice's vision for the development of the judicial system. The letter summarized the vision in seven major points as follows:

1. Develop a strategic plan for the judicial system and the justice sector and strengthen the ability of the Council's General Secretariat to implement this plan by creating operational planning systems for each department.
2. Strengthen the institutional structure of the Supreme Judicial Council's General Secretariat including its organizational configuration, human resources, job descriptions, financial management, and internal procedures.
3. Establish an office commission that works directly with the Chief Justice to supervise the development process.
4. Develop a strong court administration department within the Judicial Council to provide services to the judicial system and to workers in the different types of Palestinian courts, in accordance with the Presidential Decree issued on February 5, 2006.

5. Upgrade the professional capabilities of court administrators and processors, including the clerks and notification departments.
6. Develop the execution process of the courts' judgments, in accordance with the functioning laws, through the development of execution departments, by strengthening their capabilities, and activating the Judicial Police.
7. Enforce the principle of rule of law, through launching public awareness campaigns stressing the importance of compliance with court judgments and the role an independent judicial system plays in society's development and security for the average Palestinian citizen.

The Chief Justice's request has been translated and sent to the CTO for review and guidance. NETHAM hopes to be able to work with the SJC and restructure project assistance with USAID approval. NETHAM was providing limited assistance to the SJC in developing their organizational structure, but this activity was terminated due to the current "no contact with the PA" restrictions.

Support to the Attorney General. The changes in the legal framework brought about by the Presidential Decree have also affected the Public Prosecution, where more responsibilities have been given to the AG to manage the General Prosecution and to establish a Criminal Enforcement Department within the AG office. Accordingly, NETHAM met with the AG and his assistants in the West Bank and Gaza to discuss possible cooperation and support, especially in the area of enforcement. NETHAM also received a letter from the AG requesting that the Project support the institutional development process of the Public Prosecution in general, specifically in the establishment of a Criminal Enforcement Unit. The letter outlines the development of a general framework to support the Public Prosecution and build upon previous successful USAID work with the AG:

1. Contract legal consultant Michael Genelin, who worked for five years to develop the Public Prosecution's office during DPK's first rule of law project, to provide assistance in developing the Public Prosecution.
2. Develop the Public Prosecution as an independent institute, in accordance with the Presidential Decree, by issuing new regulations, procedures, and guidelines.
3. Develop the execution process of criminal judgments within the Office of Public Prosecution, including financial support to establish its administration and technical support to prepare regulations and procedures.
4. Develop tools and mechanisms to reduce the possibility of corruption and ensure work in the Office of Public Prosecution complies with the law. This includes procurement of equipment necessary to manage procedures and operations.

The letter has been translated into English and sent to the USAID. The AG has also named members of a steering committee from the Public Prosecution to work with the NETHAM team in the implementation and development process of the AG; accordingly, NETHAM has developed a plan of action which identifies potential areas of support.

Processes and Procedures Consultant. Early in the quarter, USAID approval was received to hire a legal consultant to carry out a full documentation of the current enforcement and notification processes and procedures. The consultant is expected to provide a full documentation of the processes and procedures at both Enforcement and Notification Units, flowcharts of all

documented processes in both units, and recommendations on improving the efficiency and effectiveness for both the notification and enforcement processes and procedures. At the end of the quarter, the consultant submitted to NETHAM a draft report on the process of enforcing civil and criminal judgments and court decisions with flow charts describing the process.

Notifications. NETHAM met with the Birzeit Institute of Law to discuss potential areas of cooperation, specifically activities related to improving the skills of court processors. The Institute expressed an interest in cooperating with the Project. Due to the Project's status, NETHAM was unable to pursue this further.

The NETHAM team carried out an internal brainstorming session to discuss the plan of action for developing the Central Notification Department and upgrading the skills of court administrators and processors. The team also carried out a site visit to the new offices of the SJC to assess the needs of the newly established Notification Department and met with the Acting Financial and Administrative Director of the SJC. NETHAM conducted a needs assessment for the Department, which included equipment, furniture, networking, counters, and stationary, that will enable court processors to carry out their tasks in a more efficient, effective, and timely manner.

Justice Sector Strategic Planning. DPK Principal William Davis and Consultant Salaheddine Al-Bashir carried out consultancies this quarter focused on justice sector strategic planning. They met with the Chief Justice, the Attorney General, and Dr. Adnan Amr, the Legal Advisor to President Mahmoud Abbas, to discuss the Presidential Decree that amended the 2002 Judiciary Law and the responsibilities of the related institutions under the new Decree, including the impact of the new Presidential Decree on the ongoing strategic planning process for the justice sector. Meetings also discussed issues related to court administration and the impact of the PLC election results on Project activities and future cooperation between NETHAM and the judiciary.

A meeting with Dr. Amr addressed the institutional development and capacity building needs of the Legal Department to the President's Office. The possibility of providing technical assistance to the Legal Department through NETHAM will be explored at a later date.

IT Tender. NETHAM completed the analysis of the IT tender which includes equipment for both the MOJ and DPK. A waiver was sent to USAID to proceed with the procurement. A committee of NETHAM and MOJ staff opened the bids. The tender included video conferencing equipment, PCs, and servers, among other equipment, that was to be used to connect the three MOJ headquarters in Nablus, Gaza, and Ramallah and to establish a video conferencing link between the MOJ offices in the West Bank and Gaza. Due to the Project's status and US government directives governing assistance to the PA Ministries, this tender is on hold until further notice.

Coordination Meeting. NETHAM staff took part in a coordination meeting for all projects that work on judicial sector support with the Birzeit Institute of Law. Key activities were discussed and a recommendation was made to hold monthly meetings with the projects and the Ministry of Planning to avoid duplication of activities. The meeting was attended by the Chief Justice, the Deputy Attorney General, the head of the Judicial Education Department, and USAID, UNDP, EU project staff, in addition to the Consulate General of the Kingdom of Belgium and the Consulate General of France. A separate meeting was held with the Director of the Bridge Project for Judicial Training. The meeting addressed coordination between projects training enforcement officers and avoiding duplication of other activities.

Capacity Building of MOJ. Early in the quarter, NETHAM submitted a letter to the Minister of Justice with the Project's Annual Work Plan in Arabic for his review and feedback. NETHAM requested a meeting with the Minister to discuss activities already implemented and to prepare for upcoming activities including strategic planning and institutional development of the MOJ. A workshop for MOJ employees was planned for February 6th but these activities were canceled after the elections.

NETHAM drafted a Terms of Reference (TOR) for a consultant to work with the MOJ to help develop a comprehensive framework for the MOJ's institutional development. This consultancy was canceled. The consultant would have focused on process analysis, process development and documentation, and preparation for MIS functional requirements.

ICDL Training. Plans were underway to conduct a 60 hour International Computer Driving License computer course for MOJ and courts staff. This activity did not take place due to the project status.

3.3 COMPONENT 2: STRENGTHEN THE ENFORCEMENT OF LAWS AND COURT DECISIONS

Judicial Police. Since NETHAM began implementing activities with respect to the Judicial Police in December several key accomplishments (outlined below) led Col. Ala Husni, the General Director of the Palestinian Police, to send USAID Mission Director Jim Beaver a letter thanking USAID for the support it has given the Judicial Police. Col Husni asked for the additional support and equipment which is necessary to develop the Judicial Police force. NETHAM provided USAID with an English translation of this letter.

NETHAM submitted a progress report on all activities completed and undertaken with respect to the judicial police. As with other Project activities, further activities regarding the judicial police are on hold, but highlighted below are some of the accomplishments achieved in January.

a. Study tour. The Director of the Judicial Police and his two assistants took part in a study tour to Jordan to examine the Jordanian experience in the establishment and development of a judicial police force. The trip itinerary was prepared by Jordanian consultant Mr. Issa Ayoub and included meetings with Jordanian judicial police leaders focusing on the Jordanian experience and obstacles that they faced in developing the new judicial police force. Meetings were also held with the Execution Department at the Amman Justice Palace to look at the official relationship with the judicial police. In addition, brainstorming sessions with Jordanian and American consultants took place to discuss the judicial police, job descriptions, and work procedures.

b. Training session. A training session was conducted on January 7th, by the Emergence Group Consultant, Michael Hayes who traveled to Ramallah after the Jordanian study tour to train 12 Palestinian judicial police field officers, including one woman. The session discussed the security procedures to protect the courthouses, judges, prosecutors; prisoner handling; courthouse building security including outer and inner perimeters, courtroom doors, windows, and the alarm system; the role of the court security officer; court security officer attire; and protection of judges and the

integrity of the courthouse. During the session, demonstrations were conducted on how to search citizens and suspects.

c. Public awareness campaign. To raise awareness of courthouse security issues and the ban on weapons in court a public awareness campaign was designed and implemented in mid-January. The campaign was comprised of ten advertisements that ran over five days. Five of these ads included a continuing series from the “Antar and Netham Diaries,” two cartoon characters that discuss the new security arrangements in the courts, the judicial police, the search of women entering court premises, weapons in the courthouse, and exiting the court and endorsing the new security procedures. The other five ads were stand alone ads with slogans dealing with protection of the courthouses, weapons in courts, and other issue. The following is a translation of the slogans:

- Weapons in court assassinate justice
- Protection of judiciary symbols grants justice
- Attacking court personnel is a crime punishable by law
- Guaranteeing the sanctity of courts is the responsibility of everybody
- Justice is a right guaranteed to all, attacking it is an attack against all

The ads ran in the Al-Quds, Al-Ayyam, and Al-Hayat Newspapers. The advertising campaign was developed in joint cooperation with the Judicial Police. While supported by NETHAM, the campaign ran in local Palestinian newspapers in the name of the Ministry of Interior Police.

After the ads began running, the Judicial Police informed NETHAM that the ads were well received and thanked NETHAM for the support. NETHAM had explored the possibility of developing this campaign into posters, billboards, radio spots, and a newspaper insert, but due to the change in the Project’s status could not explore this further.

d. Security equipment. During the quarter, courthouse security equipment, including metal detectors, hand wands, and a closed circuit TV system, was installed at the AG’s office in Gaza City and the Ramallah Courthouse complex and staff trained on its use. The Gaza equipment was delayed for several weeks due to the closure of the Carney Crossing. In Gaza the equipment was installed in the AG Building due to the fact that the Gaza courthouse will be renovated by the EU soon, which will affect the security of the building. In addition, the security level needed in the AG’s office is higher than the courthouse due to the fact that the AG’s office handles serious criminal cases. This change was approved by the USAID CTO.

In Ramallah, an electric steel gate for the courthouse was installed to limit the entrance of the public into the courthouse to only one entrance. A second entrance will be used by the judicial police to transfer detainees to and from the courthouse.

NETHAM had been in discussions with USAID and the AG’s office to hold a ceremony to launch the installment of the security equipment in late January. This ceremony could not take place after the elections.

e. Meeting of justice sector institutions. NETHAM Consultant Mr. Hayes met with the judicial stakeholders, including: police, prosecutors, judiciary, the AG and his assistants, the SJC Director General, the newly appointed MOJ Deputy Minister, and the Project team, to discuss the relations and work procedures between all related organizations and the judicial police including the flow

of information between them in order to strengthen the role of the judicial police and facilitate their mission and duties. The key issues of this meeting were:

1. The strategic perspective of the judicial police and other related institutions.
2. The professional relationship between the judicial police, the courts, and other related institutions.
3. Tools and mechanism that facilitate the functions of the parties.
4. The safety and security needs for the courts, judiciary, and prosecution.

The meeting concluded by forming a task force of representatives from all affected institutions including the General Prosecution, the MOJ, the SJC and the judicial police. NETHAM sent a letter to all parties asking them to nominate their representatives to this task force, but due to the change in the Project's status, all planned activities are on hold.

f. Job descriptions and structure. The NETHAM team worked with the judicial police Director, who appointed two officers to work with NETHAM to finalize the structure and job descriptions for the judicial police. One of these officers holds a Masters degree in management and institutional development and is expected to be very helpful in developing the structure. This task was not completed due to the change in the Project's status.

Enforcement. After the approval of the Enforcement Law and the activation of article 395 of the Penal Procedures Law concerning criminal judgments execution the NETHAM team conducted an internal brain storming session to modify the related activities of the work plan in order to be compliant with the legal changes in the enforcement and execution environment. According to the new Enforcement Law, which has been published in the Official Gazette and ratified by President Mahmoud Abbas, the General Prosecution Department will be responsible for the enforcement of criminal judgments while the Enforcement Units of the courts will enforce all other court decisions.

Discussions with the Chief Justice and Attorney General led to the development of an action plan to support the Enforcement Units, at both the courts and the General Prosecution Department. NETHAM organized a workshop for representatives from the Enforcement Units, the SJC and MOJ. The workshop focused on identifying the bottle necks, productivity delays, and equipment and technology shortages. It was agreed that the SJC would provide NETHAM the Enforcement Units productivity reports for the month of December 2005.

Birzeit Univerity, Institute of Law. A meeting was held with the Project Manager of the Birzeit University Institute of Law to discuss areas of cooperation between NETHAM and the Institute particularly in training and legislative assistance. Two major areas of training were discussed: training Execution Officers on the new Enforcement Law and other related law and training court processors on the notification processes in accordance with the new Enforcement Law. It was agreed that the Institute would submit a proposal for the above mentioned needs with a time line and budget. This, however, did not happen to due to the change in the Project's status.

4. SUMMARY OF PLANNED ACTIVITIES NEXT QUARTER

NETHAM is unable to provide complete information at this time due to the fact that the structure and scope of future assistance is unknown.

5. PROBLEMS AND REMEDIAL ACTIONS

The overall political situation and particularly the status of the USAID assistance program poses a challenge to the Project. NETHAM is hopeful that assistance to the justice sector can be restructured so that it is administered through the SJC and AG - both independent judicial bodies.