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Palestinian National Authority  
**Supreme Judicial Council**



# Fourth Annual Report

2008

Ramallah -Palestine  
May 2009



**President Mahmoud Abbas**  
**Chairman of the Executive Committee of the Palestine  
Liberation Organization**  
**President of the Palestinian National Authority**

« We will work decisively and quickly to strengthen the rule of law and the protection of independence and to prevent interference in the affairs»

Of the electoral program of President Mahmoud Abbas  
On 19/1/2005

## Supreme Judicial Council Fourth Annual Report 2008

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## Introduction

*To: His Excellency, President Mahmoud Abbas*

*President of the State of Palestine*

*Chairman of the Palestinian Liberation Organization Executive Committee*

*President of the Palestinian National Authority*

We would like to submit for your consideration the Fourth Annual Report for the year 2008. This past year constituted a landmark in the Judiciary's efforts to achieve its objectives and goals. The disposition rate of the courts increased by 66% compared with the rate for 2007. Many indicators also demonstrate that the trust and confidence of the Palestinian public in the Judiciary substantially increased compared to previous years. The increasing numbers of citizens using the courts to settle disputes is a positive indicator demonstrating an increase in the public's trust and confidence in the court's ability to resolve cases. In 2008, the number of cases registered before the courts increased by 47%.

The increased case load has also increased the work responsibilities and duties of the Judiciary in 2008, especially the challenge of controlling the growing number of cases accumulating before the courts (backlog). The case backlog is the result of many factors many of which lay outside the control of the Judiciary, such as the set of laws regulating the procedures applied before the courts and the number of judges composing the judicial panels. In addition, the backlog is also affected by the availability of needed financial resources and staff. Another set of external factors affecting the backlog problem is the performance of other judicial sector institutions such as the Public Prosecution, the Police and the BAR Association.

An example of such outside factors and its adverse effect on case backlogs is illustrated by the laws and practices governing the notification of the judicial papers. According to the law, notification by cell or land phones or by fax is prohibited and considered illegal so that all notices must be hand-delivered. While the courts issue hundred of thousands of judicial papers and documents that have to be delivered to the related parties, there are a very limited number of notification processors working in the courts. An inadequate number of processors lead to delay in delivering notices and delay in processing cases. The notification of judicial papers is considered one of the major challenges affecting the performance of the Judiciary. In addition, the law states that judicial panels have to be composed of three judges in order to try certain civil cases before the courts of First Instance, which greatly reduces the number of cases that can be tried and decided by a single judge and thus increases the number of accumulating cases before the courts.

Despite the above mentioned challenges and problems, the Judiciary has used every available means during the last year to enhance the performance of the Judiciary. The Judiciary has issued detailed judicial directives aimed at dealing with the problems and obstacles that might prevent the judge from exerting his/her control in the litigation process. As a result of these directives, the courts now refuse to register any new case without the presence of the litigating parties' full names, and clear and complete addresses of the parties and witnesses. The ambiguity in and lack of addresses results in the court being unable to serve judicial papers according to the law, which means that the court will not be able to process the case. The issued directives also targeted procedures which would forbid the litigating parties from unduly prolonging the litigation process. An example of such actions taken includes obligating the parties to present all their evidence according to the law at one time through the submission of what is known as the evidence folder. In addition, the courts now do not allow the adjournment of hearing sessions for the same reason more than once.

During the last year we also succeeded in activating many of the Judiciary's departments and institutions. One such department is the Judicial Inspection Department, which conducts many routine and random visits to the courts to observe and monitor activities. It also follows up on the complaints submitted to it according to the provisions of the law. Other important departments were also activated such as the Planning Department and the Media and Public Relations Department. In addition to the activation of the new departments, we worked towards enhancing the performance of many of the existing departments such as the Technical Office, the General Secretariat and the Judicial Training Department. Judicial competitions were also held in order to recruit more judges, which resulted in the appointment of 47 new judges during 2008. This number of new judges constitutes a one third increase in the number of sitting judges. Despite this increase, additional judges are required to adequately deal with the courts' backlog and address the increasing number of new registered cases.

*Your Excellency,*

All of the above shows that the judiciary is undergoing an important revitalization. We realize that such progress would never have been possible without the accumulated efforts of many dedicated people, particularly the judges and their supporting administrative staff. In 2009, the judiciary will adopt the same working spirit and strive to institutionalize its work, expand the number of judges and administrative staff, and provide them with the training and guidance required to manage the litigation process and dispose of cases within the highest judicial standards.

*Your Excellency,*

Despite significant achievements, the judiciary still suffers from improper interference with its powers and functions and a lack of respect for its decisions and judgments by some parties. There are still those who refuse to abide by or enforce the courts' decisions and judgments, especially the decisions of the High Court of Justice. Members of the security forces continue to refuse to testify before the courts, which delays the processing of many cases. The military courts are still infringing on the powers and jurisdiction of the regular courts in clear violation of the Basic Law and the Regular Courts' Formation Law. In addition, some parties are still trying to force their guardianship on the Supreme Judicial Council and on the Judiciary as a whole.

The judiciary has no means to deal with some of the legal problems that are an obstacle to effective and efficient case management. This results in the accumulation of a large number of cases before the various courts. To solve this problem, a number of legislative amendments are needed, including amendments to the Regular Courts' Formation Law, the Judiciary Law, and the Criminal and Civil Procedures Laws. Significantly, one law in need of an amendment specifies an unrealistic quorum for convening the Supreme Judicial Council. Currently, a quorum requires the attendance of seven members out of the eight members. Until now, there has been no cooperation from the council to increase the number of its members and define a more realistic quorum.

*Your Excellency,*

The judiciary hopes that these problems will be effectively resolved and that all other partners in the justice sector will assume their roles and responsibilities, creating a truly effective system that serves the Palestinian people. We would like to note here the importance of your support and the support of all the political and executive levels in the Palestinian National Authority in addition to the support of donors.

Finally, to all those who supported and are still supporting the Palestinian Judiciary, we would like to express our deep appreciation.

President of the High Court  
President of the Supreme Judicial Council  
Judge Issa Abu Sharar

## Executive Summary

In 2008, most Palestinian courts in the West Bank made great strides in both the work of registering new cases and the disposition of recent and pending cases which had accumulated over many years due largely to political events. The number of newly filed cases before the courts has increased substantially: in 2008, 77,515 cases were filed, compared with 52,452 in the previous year, amounting to a 46 percent increase. However, along with the increase in newly filed cases, there was also a substantial rise in the number of disposed cases in 2008. In 2008, 75,876 cases were disposed, compared with 45,660 in 2007 - a 66 percent increase.

Because the number of cases filed rose more steeply than did the number of disposed cases, the total number of pending cases did increase between 2007 and 2008, but only by 1,669 cases. By the end of December 2008, there were 58,384 pending cases, compared to 56,715 in December 2007.

To attend to the greater volume of work, the number of sitting judges who serve in the Palestinian regular courts also rose, to a total of 181 in 2008. Of this number, 136 judges preside in the West Bank and 45 judges preside in Gaza. There are 16 female judges in the West Bank and 5 female judges in Gaza for a total of 21 female judges in the Palestinian judiciary.

In 2008, the Supreme Judicial Council (SJC) appointed 47 new judges: one judge was appointed to the High Court, two judges to the Court of Appeals, five judges to the First Instance Courts and 39 judges to the Conciliation Courts. In addition to the appointment of new judges, the SJC sent two groups of law graduates to study at the Yemeni Judicial Institute and the Jordanian Judicial Institute (the Judicial Diploma Program) to prepare them to serve as Conciliation Court judges.

In 2008 the SJC issued many directives to the chief judges and judges of the various courts aimed at resolving the large case backlog. The directives instructed judges to expedite the litigation process and dispose of cases within acceptable periods by adhering to applicable civil and criminal procedures and rules of evidence.

In 2008, the council continued to build and support its administrative units and departments. This effort aimed to institutionalize its functions and duties as part of the implementation of its Strategic Plan for the years 2008 to 2010. These departments and units will help the SJC to achieve the goals of its Strategic Plan and help develop the Palestinian Judiciary. In particular, the establishment of these units and departments will help the judiciary work to create more effective relationships between the judiciary and related judicial sector partners, and help guarantee a fair trial, and a strong judiciary that protects citizens' rights and freedoms.

The Judicial Inspection Department also contributed to strengthening the judiciary. In 2008, judges from the department conducted a total of 27 visits to the various courts, of which 18 visits were regular visits and 9 visits were unannounced. The visits covered all West Bank Conciliation, First Instance and Appellate Courts.

The Judicial Training Committee conducted various training programs to help judges perform efficiently and effectively. The programs included basic training for newly appointed judges and continuing education programs for sitting judges. The training programs were held in cooperation with and through the funding of other projects and institutions that support the independence of the judiciary.

The General Secretariat of the SJC, established to provide essential organizational services to the Supreme Judicial Council and its members, continued to play a key role in 2008. On September 1, the General Secretariat began developing the formal written processes and procedures that guide its work. The Planning and Project Development and Management Unit led the SJC's strategic planning efforts and carried out coordination of donor projects and the development of new projects.

The Media and Public Relations Department also completed significant projects despite being launched only in the last quarter of 2008. Some of its achievements included developing an initial work plan, preparing a two-year strategic plan, and completing a 2009 work plan. The department was also able to attract a substantial amount of media attention to the judiciary and judicial issues in Palestine. During this short period, over fifty media articles and reports on the issue ran in newspapers, on Palestinian television and on the radio. In addition, the Media and Public Relations Department was able to conclude a Memorandum of Understanding between civil society institutions and the judiciary.

The SJC also worked on the automation of the courts through its IT department. During 2008 the IT department connected all courts, SJC offices and SJC departments with each other through a WAN network and provided all courts and SJC departments with high-speed internet connections. The courts and SJC offices and departments were also provided with the equipment, servers, software, and hardware needed for each project. In addition, the IT department provided clock attendance electronic devices to the courts and the SJC to monitor attendance. Along with the attendance system, the IT Department provided the SJC's Human Resources and Administrative Affairs Department with a state-of-the-art automated system which is connected to the attendance devices.

During 2008, significant steps were taken to provide adequate court buildings and facilities for the judiciary. A new 500 square meter courthouse was built in Jericho and the Council of Ministers has given its approval to build a second story to this new courthouse. A new courthouse was also built in Jenin to house its First Instance and Conciliation Courts, Notary Public Department, and Civil Judgment Department. In addition, a new story of 750 square meters was built on top of the Bethlehem Courthouse. In both Tulkarem and Qalqiliya, courthouses were extended in size, with 360 square meters added to the Tulkarem courthouse and 800 square meters added to Qalqiliya courthouse.

The SJC is also preparing to build new courthouses in the future. Land has been allocated by both the Salfeet and Tubas Municipalities to build courthouses in these two cities. In Ramallah and Tulkarem, the SJC, in coordination with the Council of Ministers, has begun the process for the acquisition of lands to build new courthouses in both cities.

During 2008, the SJC continued its efforts to redesign and refurbish the offices of Civil Judgment Departments in a number of courts in order to improve the work environment for both staff and the public. As a result, access to Civil Judgment Departments improved for citizens, lawyers, and staff. The new design provides suitable waiting areas for all users, new equipment such as electronic queuing systems, as well as modern furniture and air-conditioning. The SJC was able to complete the designing and modernization of Civil Judgment Departments in Ramallah, Nablus, Jenin and Jericho courts and is working to bring the same improvements to the remaining West Bank courts. The SJC also established a judicial library at the Ramallah courthouse, an important achievement and asset for the judiciary.



## Chapter One

# **Palestinian Courts' Achievements in 2008**

## Chapter One

### Palestinian Courts' Achievements in 2008

Most Palestinian courts in the West Bank made great strides in disposing of newly filed and pending cases during 2008, despite a substantial increase in the number of newly filed cases that year.

The SJC has played an active role in raising the courts' efficiency and improving its performance in disposing of cases within reasonable timeframes and without undue delay. Specifically, the SJC's actions aimed at facilitating case processing, and consolidating administrative procedures in courts. In addition, the SJC surveyed a number of closed and pending cases in the courts in order to diagnose existing problems.

#### **First: A comparison between the courts' disposition rate and the number of newly filed cases**

There was a substantial increase in the number of newly registered cases during 2008 compared to the previous year. In 2008, 77,515 cases were filed, compared with 52,452 in 2007, amounting to a 46 percent increase. In addition to the increase in newly filed cases, there was also a substantial rise in the number of disposed cases in 2008. In 2008, 75,876 cases were disposed of, compared with 45,660 in 2007 - a 66 percent increase.

The High Court of Justice received a total of 477 cases and disposed of 310 cases, and the Cassation Court received a total of 448 cases and disposed of 418 cases in 2008. There were 389 pending cases before the High Court of Justice and 170 pending cases before the Cassation Court at the end of 2008.

### The number of newly filed and disposed cases before the Conciliation and First Instance Courts in 2008

Court Name	# of new cases before First Instance Courts	# of Disposed cases by First Instance Courts	# new cases before Conciliation Courts	# of disposed cases by First Instance Courts	# of new traffic cases	# of disposed traffic cases	Total # of new cases	Total # of disposed cases
Jericho	141	116	676	672	3623	3962	4440	4750
Hebron	1153	1028	1622	2217	5815	5825	8590	9070
Tulkarem	378	299	2341	1560	3431	3639	6150	5498
Nablus	961	1037	3851	3392	7073	7304	11885	11733
Bethlehem	418	606	2007	1659	4579	4568	7004	6833
Qalqiliya	219	200	1769	1601	2197	2258	4185	4059
Jenin	457	353	2907	2557	3306	3371	6670	6281
Ramallah	843	655	3769	3018	13678	13678	18290	17351
Dora	1	1	1354	1322	2256	2256	3610	3578
Salfeet	1	1	969	1125	1207	1231	2176	2356
Halhul	1	1	936	1087	1507	1512	2443	2599
Tubas	1	1	1102	744	970	994	2072	1738
<b>Total</b>	<b>4570</b>	<b>4294</b>	<b>23303</b>	<b>20954</b>	<b>49642</b>	<b>50998</b>	<b>77515</b>	<b>75846</b>
Disposal Rate	94%		90%		102%		97.8%	

### Second: Cases pending before the courts in 2008

However, there is still a large number of accumulated cases and a noticeable delay in processing and disposing of cases. The delay in disposing of cases is the result of various factors, both internal and external. But improvements are evident. The backlog of cases before all courts at the end of 2008 reached 58,384, compared 56,715 in 2007. So, although the number of the newly registered cases during the year 2008 exceeded those of year 2007 by 25,063, the total number of accumulated cases increased by just 1,669.

The delay in processing and disposing of cases is a serious concern faced by all courts. Approximately 53 percent of cases pending before the courts are more than two years old and 15 percent of these cases are more than five years old. Though the courts are able to process and dispose of some types of cases relatively quickly, other cases remain pending for long periods. This indicates that judges' control over the litigation process of criminal and civil cases may be, at times, limited.

This is likely due, in part, to the number of hearing sessions. A survey conducted by the SJC showed that the number of hearing sessions in all types of cases and courts is high and is clearly more than the acceptable number of hearings according to international standards. As of October 2008, the average number of hearing sessions in pending civil cases before Conciliation Courts and pending criminal cases before the First Instance Courts was 17. The average for pending criminal cases before the Conciliation Courts was 10 sessions, and for pending civil cases before the First Instance Courts, 14 sessions. In 65 percent of hearing sessions, adjournment was caused by the absence of one of the parties, failure to notify one of the parties or the lack of readiness on part of the lawyers or the Public Prosecution.

To dispose of cases within an acceptable period, the courts must impose tighter control on the adjournment of sessions.

### Accumulated Cases before the First Instance Courts during 2008 in Comparison with the Numbers for 2007

Court	Accumulated (Pending) cases as of December 2007	Newly Registered Cases During 2008	Total	Disposed	Accumulated (Pending) cases until End of December 2008
Jericho First Instance Court	180	141	321	116	205
Hebron First Instance Court	1961	1153	3114	1028	2086
Tulkarem First Instance Court	906	378	1284	299	985
Nablus First Instance Court	2175	961	3136	1037	2099
Bethlehem First Instance Court	1225	418	1643	606	1037
Qalqiliya First Instance Court	621	219	840	200	640
Jenin First Instance Court	875	457	1332	353	979
Ramallah First Instance Court	1951	843	2794	655	2139
<b>Total</b>	<b>9894</b>	<b>4570</b>	<b>14464</b>	<b>4294</b>	<b>10170</b>

The above table shows the following:

- In 2008, the number of disposed cases was greater than the number of newly registered cases in Nablus and Bethlehem courts.
- In all other courts, the number of newly registered cases was greater than the number of disposed cases, especially in Ramallah and Hebron courts.
- The difference between the numbers of newly registered cases and disposed cases is not very large, and neither is the difference between the accumulated cases in 2007 and in 2008.

#### Number of Accumulated Cases before the First Instance Courts in 2008 Compared with 2007

Court	Pending cases at the end of 2007	Newly registered cases during 2008	Total	Disposed	Pending at the end of 2008
Jericho Conciliation Court	1231	4299	5530	4634	896
Hebron Conciliation Court	2640	7437	10077	8042	2035
Tulkarem Conciliation Court	4217	5772	9989	5199	4790
Nablus Conciliation Court	12892	10924	23816	10696	13120
Bethlehem Conciliation Court	3367	6586	9953	6227	3726
Qalqiliya Conciliation Court	3978	3966	7944	3859	4085
Jenin Conciliation Court	6972	6213	13185	5928	7257
Ramallah Conciliation Court	6051	17447	23498	16696	6802
Dora Conciliation Court	2950	3610	6560	3578	2982
Salfeet Conciliation Court	893	2176	3069	2356	713
Halhul Conciliation Court	807	2443	3250	2599	651
Tubas Conciliation Court	823	2072	2895	1738	1157
Total	46821	72945	119766	71552	48214

The above table shows the following:

- The number of disposed cases was lower than the number of newly registered cases in Nablus, Bethlehem, Tulkarem, Qalqiliya, Jenin, Ramallah, Dora and Tubas courts.
- The number of disposed cases was greater than the number of newly registered cases in Jericho, Hebron and Salfeet courts.

#### Third: Cases pending for over ten years

During 2008, the SJC conducted an inventory of cases that have been pending for over ten years. A sample of these cases was thoroughly analyzed. The study included reviewing the hearing minutes, the cause of hearing adjournments and identifying the parties<sup>1</sup> responsible for the adjournments. The reasons for the delays are shown in the table below:

#### Number of cases pending for over ten years before the various courts

Court	Criminal and Civil Cases before First Instance Courts	Criminal and Civil Cases before First Instance Courts	Total
Ramallah	169	108	277
Nablus	151	890	1041
Jenin	01	1131	1131
Hebron	56	19	75
Total	376	2148	2524

After analyzing a sample of cases that are more than ten years old, the following facts emerged:

#### Types of the criminal cases before First Instance Courts

- Theft by participation
- Embezzlement and abuse of public office
- Attempted murder by participation

#### Types of civil cases before the First Instance Courts

- Money claims (Debt collection)
- Property claims
- Nullifying a note
- Nullifying a periodical power of attorney
- Removal of damage
- Executing a periodical power of attorney

#### Types of criminal cases before conciliation courts:

- Theft
- Bodily harm and causing bodily harm

<sup>1</sup> No old cases before Jenin FI court because it was established in 2003.

- Checks issued without adequate balance
- Deception and dishonesty
- Slander and defamation

**Types of civil cases before conciliation courts:**

- Evacuating premises
- Removal of joint ownership

After analyzing the study sample and reviewing the hearing minutes, it was discovered that in trying some cases, the court held between 50-60 hearing sessions, and there were cases where more than 100 hearing sessions were held. The reasons for most of the adjournments were as follows:

- The absence of one of the parties or his/her attorney or one of the witnesses because they were not notified of the hearing session date. This delayed cases for up to 45 months.
- The absence of one of the notified parties or his/her attorney or one of the notified witnesses. This delayed cases for up to 40 months.
- The death of one or both parties during the trial process.
- The lack of correct addresses for witnesses who reside abroad.
- Judges' absence or lack of quorum led to a delay of up to 25 months.

**Steps and actions taken by the SJC to solve these problems:**

- A list of all cases that are more than ten years old was drafted, and a request was sent to the chief judge of the appropriate court to provide the Chief Justice with a timeframe to address these cases including, suggestions on how to reduce delays.
- A copy of this list was shared with the Judicial Inspection Department to enable the department to monitor court actions on such cases and submit its recommendation to the Council.
- SJC is helping judges to prevent the parties from unduly prolonging the trial, and thus enabling judges to keep tighter control of the litigation process. The judges were also asked not to accept the addition of any new witnesses and to compel the parties to specify in advance what evidence they hold.

**Fourth: Case accumulation rate vs. number of judges**

The number of sitting judges determines, to a large extent, the speed with which cases are disposed. There is no fixed standard on the number of cases a judge should handle at one time, and several factors affect the judge's speed of processing, such as the complexity of the given case, and the judge's experience. The number of judges, compared to the amount of pending cases, tends to be small, however, which underscores the need to appoint more judges and administrative staff in the courts.

In 2008, the number of sitting judges who serve in the various regular courts reached 181, including 136 judges in the West Bank and 45 judges in Gaza. That year, the SJC appointed 47 new judges to specialized courts: one to serve at the High Court, two to the Court of Appeals, five to the First Instance Courts and 39 to the Conciliation Courts<sup>2</sup>. Most of the new judges appointed in 2008 assumed their duties after September of that year.

**Numbers of sitting judges**

Court	West Bank	Gaza Strip	Total
High Court	15	8	23
Appellate Courts	14	12	26
First Instance Courts	48	25	73
Conciliation Courts	59	0	59
Total	136	47	181

A court's level of performance and ability to manage its cases can be measured by comparing the accumulated rate of cases before each judge and the time the court takes to dispose of all the cases on its docket.

If the accumulated rate of cases pending before the First Instance Courts is considered against the number of judges at the court (provided that this number

<sup>2</sup> During 2008 the SJC sent two groups of law school graduates for training: the first group was sent to the Judicial Institute of Jordan and the second to the Yemeni Judicial Institute, to gain qualifications to become Conciliation Court judges in the future. There is a total of 21 female judges now serving in the Palestinian courts: 16 in the West Bank and 5 in the Gaza Strip.

A number of judges lead various departments and units of the SJC. For instance, Judge Rasha Hamad is the Secretary General of the SJC in addition to her duties as a trial judge. Judge Thuraya Alwazir serves as the Director of the Planning and Projects Management Unit in addition to her duties as a trial judge. Judge Azmi Tanjer serves as the Head of the Judicial Inspection Department; Judges Ra'ed Abdul Hameed and Tayser Abu Zahir serve as inspection judges while both judge Nasar Mansour and Judge Ghasan Alreshe serve in the Technical Office.

Court Chief Judges include: Judge Mohamad Haj Yaseen, Ramallah; Judge Ashraf Oriqat, Hebron; Judge Hazim Dekadik, Bethlehem; Judge Mahmoud Jamous, Jenin; Judge Basam Hijawi, Tulkarem; Judge Fareed Aqel, Qalqilya; Judge Ruslan Arafat, Nablus; and Judge Isam Ansary, Jericho.

remains the same), then at the current rate of case disposal, the Ramallah First Instance Court would need seven years to dispose of all the cases on its current docket; Tulkarem courts six years; both Hebron and Nablus five years each; and Jericho and Qalqiliya four years each. If the same equation is applied to the Conciliation Courts, the Nablus court would need six years to clear its docket; Tulkarem five years and Ramallah, Qalqiliya, Jenin, and Dora would each need four years to dispose of the cases.

#### Accumulated cases compared to the number of judges in each court

Court	First Instance Courts			Conciliation Courts		
	Cases/judge	Disposed cases per judge	First Instance accumulation rate	Cases/judge	Disposed cases per judge	Conciliation accumulation rate
Bethlehem	265	57	467%	1766	459	385%
Dora	-	-	-	2117	477	444%
Halhul	-	-	-	1466	846	173%
Hebron	313	54	578%	1186	561	211%
Jericho	303	75	406%	2322	979	237%
Jenin	85	16	529%	3735	836	447%
Nablus	366	65	567%	3314	514	645%
Qalqiliya	110	23	473%	5421	1305	415%
Ramallah	384	53	730%	2012	447	450%
Salfeet	-	-	-	903	916	99%
Tubas	-	-	-	2036	580	351%
Tulkarem	337	51	661%	3321	606	548%

#### Fifth: Hearing session adjournment causes

Table 12 below shows the main causes for adjournments of hearings for cases that were still pending on October 15 2008 before the Ramallah Conciliation Court (civil and criminal) and the Ramallah First Instance Courts (civil cases only). The table shows that the most common cause for hearing adjournment was the absence of one party or witness despite having been notified of the hearing time and date. The next most common reason was the request of one party or his/her attorney to adjourn the hearing because of lack of preparation. To effectively deal with adjournment due to lack of preparation or to absence, the court could adopt a strict policy regarding adjournment requests. Other causes for adjournment – such as a judge’s absence, administrative adjournment or a court being closed on the date of the hearing - need also to be investigated

and dealt with, possibly through the adoption of more refined procedures in scheduling hearings.

#### Causes of hearings adjournment in Ramallah Court - Pending cases

Cause/s for hearing session adjournments	Conciliation / Criminal 8260 hearings	Conciliation / Civil 17189 hearings	First Instance/ Civil 6898 hearings
More time is needed for evidence collection	25%	19%	7%
Parties and witnesses were notified but one or more party did not attend	55%	38%	59%
Parties or witnesses were not notified	6%	8%	1%
Absence of judge/s	3%	11%	5%
Administrative adjournment	4%	8%	2%
Holiday, strike, etc.	5%	10%	12%
Total	93%	94%	86%

Information was collected through AI Mizan program.

#### Sixth: Steps taken by the SJC to reduce case backlog and hearing session adjournments.

The SJC has issued a number of directives to all judges and chief judges in 2008, urging them to adhere to the rules of civil and criminal procedures and the rules of evidence submission, so that the trial process is expedited and cases are resolved within an acceptable timeframe. These directives aimed to reduce case backlog and were issued according to the applicable laws. They are based on the periodical reports by the Judicial Inspection and recommendations stemming from workshops on case processing.

The directives included the following:

- Compelling the plaintiff to attach with his/her list of claims a folder of all the documents that support those claims, a list of all written evidence that are with a third party and a list of all witnesses and their complete addresses. He/she has also to submit the facts to be proven through testimony and sign every document in the folder.
- The names of the plaintiff, the defendant and the witnesses have to be fully stated and the addresses of witnesses should be clearly specified to facilitate the notification process.

- In urgent matters, the judge has to abide by the Civil Procedures Law and schedule a hearing within seven days from the date that the request was filed and notify the defendant. If it is not possible to notify the defendant, the judges must proceed in reviewing the request. Adjournments between hearings should be reasonable in length, and the decision should be issued without undue delay.
- If a witness did not attend the hearing despite having been correctly notified, he/she will be fined by the court. If the witness does not attend the hearing for the second time after he/she was ordered to do so by the court, then the court has to issue a summons warrant against them.
- The parties should deposit in advance the needed witness costs at the court according to the Evidence Law.
- A hearing session shall not be adjourned for more than thirty days at a time, or twice for the same reason. In short procedure cases, the court has to hold the first hearing within fifteen days from the day the case was filed.
- Judges have to note all national and official holiday dates in their bench agenda to avoid scheduling hearing sessions on those dates. They also have to allocate the first day of each month to taking docket inventory and to comparing their dockets with the court registration books. This applies as well to the Civil Judgment Departments.

#### **A. Recommendations** on increasing disposition rates

1. Reduce the number of accumulated cases - i.e. process and dispose of cases within a reasonable time without any undue or extended delay. The processing of cases should be done according to time frames that will be developed by the courts. The courts must adhere to the applicable laws to manage the litigation pace by, for instance, limiting the number of times that a case is adjourned by employing stricter criteria for adjournment requests.
2. Develop case processing standards that would take into consideration case age and specify timeframes for case disposition.
3. Establish standards on adjournments to be adopted by the courts and judges, particularly those who must take stricter measures against multiple adjournments. For each standard, a universal goal would be specified.
4. Develop a system to assess the courts' compliance with the adopted standards.
5. Issue regular reports that capture the progress made towards realizing these goals and distributing those reports to all courts, judges and supervisors

#### **B. Recommendations** related to legislative amendments

1. Amend legislation to allow for a system to allow the SJC to preserve the judges' rights when they are promoted, without having to move them to a higher court. Such a system would allow the First Instance Court judges to preside over Conciliation cases.
2. Enact legislation to encourage the adoption of case management. One of the most important legislations would be the adoption of the one-panel judge in civil cases before the First Instance courts, replacing the three panel system.
3. Improve the court notification system by amending the applicable legislation. The new notification system should allow courts to notify related individuals through the use of e-mail, fax, and other forms of modern technology. The notification process should be privatized for greater efficiency, allowing private companies to carry out the notifications.
4. Enhance the judges' ability to control the litigation process through legislation granting them more power over session adjournments, allowing them to take action in the case of absent parties and witnesses and controlling the presentation and submission of evidence to the court.

5. Enact a general amnesty law that would allow the courts to purge many of the criminal cases which have no merit and are still pending before the Conciliation Courts.

#### **C. Other recommendations**

1. Develop a case management system which differentiates between cases according to their degree of complexity.
2. Develop a hearing scheduling system that is able to deal with a wide variety of cases.
3. Build the capacity of the Public Prosecution, the Bar Association, the police and other related parties which will, to a large extent, enable the courts to effectively manage their cases.



## **Chapter Two**

# **Institutionalizing the Supreme Judicial Council Functions**

## Chapter Two

### Institutionalizing the Supreme Judicial Council Functions

The SJC continued to institutionalize its work and functions as set out in its strategic plan for the years 2008 to 2010. The strategic plan will add to the vision for the development of the Palestinian judiciary - particularly in establishing relationships between the judiciary and other branches of government, the protection of citizens' basic rights and freedoms, in addition to the right to a fair trial.

To achieve its goals, the SJC established specialized administrative units, including new departments within the courts, strengthened existing ones and built capacities of staff and work units. In addition, the SJC strengthened coordination between its various departments and units.

#### First: Enhancing internal accountability and supervision

To enhance the accountability and responsibility within the judiciary, the Judicial Inspection Directorate continued to work to support the independence of the judiciary and to bolster the public's trust in the judiciary through closer management and inspection of judges and court staff's performance. During 2008, the directorate increased its routine inspection visits to the courts according to a preset schedule, to verify that all judges and staff members adhere to the official working hours. In addition, judges and staff members received in-depth briefings about their professional and organizational capacities as well as legal and judicial duties that constitute proper judicial conduct.

The SJC took bold steps to shore up the Judicial Inspection Department, increasing, for instance, the number of full-time inspection judges, which led to not just more inspections, but also better results of such inspections. As a close result of these visits, the courts enhanced their performance, increased disposition rates and improved the quality of services they provide to the public.

The department relied on two methods of operations: routine scheduled visits and unscheduled visits. The routine visits were performed according to a preset schedule, and courts were informed ahead of the visit. In certain instances, the inspectors conducted visits without notifying the court, judge, or staff of the inspection.

In 2008, the inspection judges carried out 27 inspection visits, of which 18 were scheduled routine visits while the rest were unscheduled. All Conciliation, First Instance and Appellate Courts were visited. During the inspection visits the inspectors verified the following procedures in the courts:

- Judges' and staff's adherence to official working hours
- Verified dates and times of hearing session openings
- Examined trial procedures and case management
- Monitored the judges' behavior during the trial and their abilities to manage the sessions
- Monitored the judges' behavior towards the litigants, lawyers, and employees

The inspectors also observed the judges' professional capabilities, as well as their ability to deal with requests and pleas presented during hearing sessions. Inspectors also noted the strength of the judgments and whether such judgments were reasoned and drafted correctly. In addition, the inspectors examined the number of pending cases before the judge, the judge's disposition rate and his/her management of time after the hearing session. Inspectors included courts' staff in their surveys, verifying the staff's work by examining registration books and processes for filing and other parts of their duties.

After each visit the inspectors submitted to the President of the SJC a report of all observations and recommendations.

In 2008, the department received 73 complaints, either related to the litigation process, judges or panels, or to administrative investigations related to the loss of a case file or piece of evidence or to forgery. A total of 56 of the complaints received were processed and closed; the remaining 17 complaints remain open.

Despite the progress made by the Judicial Inspection Department during 2008, obstacles remain, including the following :

- Need for more judges and staff in the department
- Lack of IT equipment
- Lack of electronic connection between department and SJC
- Lack of adequate means of transportation
- Israeli military checkpoints which restrict the movement of inspectors and their ability to reach the courts on time

### **Second: Judicial and administrative training**

Training judges and courts' staff is the first priority for the SJC's Judicial Training Department. The department aims is to strengthen judicial performance through quality training that incorporates recent international and local best

practices and focuses on practical issues. The department actively solicits staff input for the training programs.

The department delivered many training programs, including basic preparatory training for newly appointed judges and continuing training programs for sitting judges and court staff. The training was organized in cooperation with local projects and organizations that assist the judiciary and work to enhance its independence. The following are some of the key programs delivered in 2008:

#### **1. Judicial backlog workshop**

This workshop was held in Ramallah on March 1, 2008 and was attended by a large number of judges, from all courts, and several chief prosecutors. The workshop tackled many issues including the role of the judges and managing cases, ADR in criminal cases as well as the Dutch experience in dealing with case backlog. Participants were actively engaged and developed targeted recommendations related to their work experiences.

#### **2. Training of Trainers Programs**

The Training of Trainers (ToT) Program aimed to create highly competent trainers. The trainers learned how to analyze training needs, design training programs, evaluate trainings and develop solid teaching and training skills. The ToT Program was delivered in three phases.

#### **3. Preparatory training program for newly appointed Conciliation Courts Judges**

A training program for 14 newly appointed Conciliation Court judges were conducted at the Palestinian Judicial Institute. The training, which began in October 2008 and concluded in March 2009, centered on legal and judicial topics such as judicial conduct, civil and commercial procedures, criminal procedures and moot court sessions. Judges also received practical training before the courts.

#### **4. Training program for Conciliation Courts Judges appointed at the end of 2007**

Through the cooperation between the SJC and the Judicial Institute of Jordan, 18 Conciliation Courts judges who were appointed at the end of 2007 participated in a training program at the Judicial Institute of Jordan. To avoid the absence of so many judges from their courts at once, participants were divided into two groups, which benefited from the training in different weeks. The training program lasted for one month and included many judicial and legal topics such as Palestinian civil and criminal procedures.

## **5. Basic preparatory training for Conciliation Courts Judges appointed in 2008**

Starting on June 8, 2008 a three-month training program was conducted at the Palestinian Judicial Institute. The program was attended by 25 Conciliation Courts judges and five First Instance Courts judges and lasted until August 31 2008.

## **6. The Palestinian Judicial Conference**

The SJC invited all Palestinian regular courts judges to meet in Bethlehem between July 18-20, 2008, for discussions on the Palestinian judiciary and ideas on enhancing its performance. Turn-out was high, though judges from the southern districts were not able to participate due to the situation in the Gaza Strip.

## **7. Training for 30 Judges at the Jordanian Judicial Institute**

Thirty newly appointed First Instance and Conciliation Courts judges participated in three training programs held at the Jordanian Judicial Institute. The participants received training on applicable laws in the Palestinian courts such as the commercial, civil and criminal procedures law and labor law. The judges also received practical training at the Jordanian courts. Following the first training program, the judges participated in a one week training program on land disputes, its settlement and registration.

## **8. Ten law graduates enrolled in the Judicial Diploma Program at the Jordanian Judicial Institute**

Ten Palestinian law school graduates received scholarships from the SJC to participate in the Judicial Diploma Program at the Jordanian Judicial Institute, which began in October 2008. The participants were selected through a competition advertised in the local newspapers by the SJC. After graduation, the students will be appointed as Conciliation Court judges.

### **Third: Strengthening the role of the SJC's General Secretariat**

Despite having been established so recently, the General Secretariat is one of the most important SJC administrative departments. It provides vital logistic support to the Chief Justice's Office and facilitates the judge's administrative and judicial affairs by coordinating with relevant institutions.

Though human resources are lacking, the General Secretariat has managed to follow its work strategy, aiming to provide high-quality services to Palestinian

judges. The following is a summary of the activities performed by the Secretariat:

- The General Secretariat provides basic information for the SJC's website (funded through the Seyada project). The secretariat supplies new materials for website updates that it collects from various sources including court units.
- In cooperation with various committees, the secretariat reviews and edits all lists of books and resources needed by the courts' legal library. The secretariat also follows up on judges' affairs and transactions with public institutions such as the Ministry of Finance and the Civil Service Bureau, administers the judges' vacations, and maintains their personnel files.
- The secretariat follows up on the implementation and archiving of all the SJC's decisions, which facilitates the retrieval of information on transfers or assignments of judges and related issues. The secretariat prepares any reports or lists requested by the SJC, and is working to improve its human resource system.
- The secretariat is considered as the main source of information on judges, including their numbers and distribution. It provides all related reports upon request.
- The secretariat coordinates with the other SJC departments. It provides the Media and Public Relations Department with information related to judges for use in its publications. It also coordinates with the Training and Judicial Inspection Departments and works closely with General Directorate for Financial and Administrative Affairs in facilitating all of the judges' administrative and financial affairs. In cooperation with the Court Administration Directorate, it works to unify working procedures at the courts.
- The secretariat works directly with the courts and responds to many daily requests from judges.
- The secretariat supported three judicial competitions to select new judges and participated in sending ten law school graduates to the Jordanian Judicial Institute. It received applications, prepared the lists of participants and published the results.

#### **Fourth: Strategic Planning and Project Management Unit**

The Strategic Planning and Project Management Unit was established to help the SJC meet the objectives of its strategic plan. The plan details that the SJC will develop the performance of the existing departments and units and establish new administrative departments, all to shore up the Palestinian judiciary's role in providing services to the public.

To that end, the SJC established the Strategic Planning and Project Management Unit. The unit is currently staffed by a director, an administrative assistant and a donor relations coordinator. The staff, which is currently funded by outside sources, aims to establish the unit and train internal staff to assume responsibilities in the future.

The unit designs development plans and programs for the judiciary. The unit also oversees all programs and projects to verify results and benefits to the targeted groups. It also works to prevent overlap between the various donors and to enhance the level of coordination between the SJC units and departments.

The unit also studies the needs of the SJC and the judiciary to develop projects to strengthen the SJC, which were then submitted to donor agencies. The unit works closely with related ministries, particularly the Ministry of Planning (MoP). The MoP serves on the coordination committees that aim to strengthen links between the SJC, the Ministry of Justice and the Public Prosecution. In addition, the MoP coordinates with donors to secure new funding for projects.

The Strategic Planning and Project Management Unit worked hard to meet its goals as per the SJC Strategic Plan objectives, designing continuous training programs and specialized training workshops to help Palestinian judges gain greater efficiency.

The unit has worked on upgrading a new notification system for the Notification Departments and on providing needed equipment for the department. The unit follows up on issues of judicial specialization with the Judicial Education Committee and, as a result, a judicial library was established and provided with specialized books and resources. This library will provide legal books and resources in addition to specialized information, as part of efforts to establish an accessible judicial information system. It is expected that the library will start providing services in 2009 and will contain 700 books.

The unit also monitors the implementation of relevant donor projects. It cooperates with the Judicial Inspection Directorate and the Technical Office to define training and job-related needs. The unit works closely with donor agencies to help develop these departments and to enhance inspection systems and accountability within the judiciary.

The unit assists in strengthening other SJC units, and helped develop the SJC Strategic Plan and its performance indicators, and draft the SJC's annual budget. The unit works primarily with the Chief Justice to design and oversee projects.

The unit also coordinates closely with the IT Department to improve court automation and case management. Currently the unit is working with the IT department to develop and implement Al Mizan 2 case management system, and to provide equipment for the SJC departments and units. The unit also supervised the delivery of furniture and equipment to the newly renovated Jenin Courthouse. Furthermore, the unit submitted a proposal to build courthouses in Ramallah, Hebron and Tulkarem to the Canadian government, at an estimated cost of 25-30 million US dollars. The unit is currently selecting the land lots to build these courthouses, and is following up on the rehabilitation of the Notary Publics and Civil Judgment Departments and the Notification Department at the Bethlehem court. The head of the unit participated in the HR needs assessment committee which has produced a final report of its findings.

Finally, the unit works closely with the Media and Public Relations Department and has assisted the department in developing and implementing its work plan. The department aims to raise public awareness, to supply the public with judicial information and access to such information, and to highlight the importance of the judiciary in protecting the public's basic rights and freedoms. The unit assists the media department with these functions, helping to design, for instance, legal and judicial awareness campaigns, and is responsible for publishing judicial judgments.

Finally the Unit works with the Media and Public Relations Department in order to achieve the strategic goal related to the protection of the citizens basic rights and freedoms. It assisted the Media and Public relations Department in developing its work plan and supervises its implementation with the donor agencies. The strategic plan aims at raising the awareness of the public and emphasizes the importance of the Judiciary in protecting the basic rights and freedoms of the public in addition to providing the public with judicial information and access to such information. The Unit also works with the Media Department on designing legal and judicial awareness campaigns through the media outlets and the Civil Society Organizations. It is also responsible for publishing judicial judgments.

#### **Fifth: Educating the public about the judiciary and strengthening the relations between the judiciary, civil society and media institutions**

With SJC's launch of the Media and Public Relations Department in October 2008, a substantial step was taken to educate the public about the importance of the judiciary. The goals and objectives of the new department goals are as follows:

enable citizens to obtain access to judicial information and create awareness campaigns, presented in simple, direct language, to educate the public on the judiciary, enhance litigation transparency and strengthen the relationship between the media and the civil society institute.

Despite the Media and Public Relations Department's relatively recent launch, in the last quarter of 2008, it managed to complete the following: develop an initial work plan, a two year strategic plan and an action plan for 2009 and draw extensive media attention to the judiciary and its functions, with more than fifty TV, radio and newspaper reports about the judiciary were run by the various Palestinian media outlets. In addition, the department was able to prepare a draft Memorandum of Understanding between the judiciary and several civil society organizations. The department was able to produce and publish in February 2009 the first issue of Qadaona ('Our Judiciary') magazine, a quarterly publication issued by the SJC in both Arabic and English. The department also began developing the content and design of the SJC's website, and received equipment needed for its work, such as computers, digital cameras and camcorders.

#### **Sixth: Computerization of the courts and case files**

In support of the SJC's efforts to computerize the courts, the IT Department connected all Palestinian courts with the SJC's offices and different departments through a WAN (Wide Area Network). It also provided the courts and the various departments and units of the SJC with internet service as well as ADSL connections. The SJC's main offices were provided with servers to host the main database.

These efforts aimed to establish a central database to enable decision makers to access information related to the courts. It will also enable the courts, departments and related public institutions, such as the Ministry of Transportation, to share information – for instance, to quickly provide decisions on traffic violations.

The IT department provided the SJC offices and its units with electronic attendance devices to help monitor staff attendance and adherence to the official working hours. The IT Department also provided a computer-based HR system, which was connected with the electronic attendance devices, and trained HR staff on its function.

The IT Department succeeded in computerizing the Appellate Courts, including the Ramallah Court of Appeals, the Jerusalem Court of Appeals and the Income Tax Court of Appeals by introducing an automated case management system. All SJC staff members were taught to use the new system and enter pending cases. Now courts can link to other automated trial courts, which use Al Mizan

automated case management program. The case management system enables the court to electronically register the cases, print hearing minutes, retrieve case information, and provide electronic scheduling and printing of notification notices. These services facilitate the court's work and help to prevent undue delays.

In 2008, the IT Department introduced computerization at the Cassation Court in Ramallah through a specialized case management program. All Cassation Court staff was trained on the use and function of the new program and was able to enter all pending case data into the new system. The same computerization process included the High Court of Justice convening in Ramallah.

Additionally, the Technical Office was provided with an electronic legal database which contains all the related applicable laws. The Notary Public Departments in Ramallah and Nablus courts completed the data entry of the old case files. Currently, the Notary Public Department keeps an electronic copy of each notarized document at the department to facilitate case retrieval. In the past it would take up to three days to retrieve information from the Notary Public Department but now it takes only minutes.

The IT Department compares the manual registrars at the courts with the electronic ones to provide the judiciary with accurate information and statistics. This work enables the SJC to rely solely on Al Mizan automated case management system to obtain reports related to the performance of the courts.

The IT Department also supplied the Jericho Court with equipment needed for computerization, equipped the Jenin courthouse, and provided an automated management system and electronic devices to the SJC's library. IT Department also led training sessions for newly appointed court staff on the use and functions of Al Mizan automated case management program and other basic computer skills.

## Recommendations for the Judicial Authority's Institution Building

### A. General Recommendations:

1. Continue the establishment and development of specialized departments at the SJC according to the strategic plan for the years 2008-2010.
2. Continue the establishment of the court departments and enact regulations to control the work and functions of such departments.
3. Establish a committee to coordinate between the different departments and units. Such a committee must act under the supervision and leadership of the Chief Justice.

### B. Specific Recommendations:

#### First: Judicial inspection

1. Increase the number of judges and administrative staff working at the Judicial Inspection Department.
2. Electronically connect the Inspection Department with all courts.
3. Enhance the capabilities of the Inspection Department judges and staff through specialized training and provide opportunity to observe other inspection system used abroad.

#### Second: Judicial training

1. Develop a comprehensive training plan for court staff in order to improve capability and strengthen their skills.
2. Review and improve training programs for newly appointed judges and sitting judges.
3. Provide the Judicial Training Department with researchers.
4. Review the set of legislation, and establish and regulate the Palestinian Judicial Institute to strengthen and improve its role.

#### Third: The General Secretariat of SJC

1. Provide the General Secretariat with the technical equipment and human resources required.

2. Introduce specialization to the courts, allowing judges to specialize in certain types of cases such as traffic, labor, criminal and commercial cases.
3. Strengthen the General Secretariat's role in following up all judicial affairs.

#### Fourth: Planning and projects management

1. Improve the Planning and Projects Management Department's abilities to develop projects for the judiciary, in cooperation with the SJC.
2. Design implementation plans to execute and supervise programs and projects.
3. Improve the department's capabilities in ensuring 39 quality control and evaluate the performance and results of the various programs and projects.
4. Provide the department with the needed human resources to guarantee the continuity of its functions.

#### Fifth: The media and civil society

1. Improve the performance of the Media and Public Relations Department through providing needed administrative staff.
2. Provide the department with material to support a conference room where press conferences and meetings could be held.
3. Establish lines of communications between the department and the judicial departments to disseminate information related to the judiciary.
4. Strengthen the relations between the department and related public institutions.

#### Sixth: Courts and case files automation

1. Provide the IT Department staff with the training to be able to efficiently operate Al Mizan automated case management program.
2. Develop and upgrade the Al Mizan program (currently named Al Mizan version 2).
3. Continue connecting the various courts and judicial departments with each other.



## Chapter Three

# Appropriate Litigation Environment

## Chapter Three

### Appropriate Litigation Environment

The SJC continued its efforts to enhance the litigation environment. To that end, new courthouses were built and existing courthouse and departments were renovated. Departments that provide direct services to the public – such as the Notary Public, Civil Judgment and Notification Department - were primary beneficiaries of the upgrades.

#### First: Extending existing courthouses and constructing new facilities

The courts and the buildings which host the SJC and its various departments play a very important role in improving the quality of the judiciary and in shaping the perception of justice. Court buildings should be suited, both in appearance and location, to their function, and to allow the public easy access. These buildings must offer a safe and secure environment for judges, staff and the public.

In 2008, the SJC continued to assess the status of existing courthouses and their needs as well as developing expansion plans when suitable. It also worked to provide new buildings in certain locations. The SJC was able to provide Jericho First Instance Court with a new 550 square meter, fully furnished building. In addition, the cabinet has approved the construction of an addition of 550 square meters to the Jericho Courthouse. In Jenin, the courts were moved to a new courthouse in 2008. The Bethlehem Courthouse is currently under expansion and a new 750 square meter floor is being built. The Bethlehem and Jericho renovations were funded by the Palestinian National Authority.

Expansions also took place in the Qalqiliya and Tulkarem courts: in Qalqiliya, premises were expanded by 800 square meters and in Tulkarem, by 360 square meters. The municipalities of Tubas and Salfeet donated land lots for the building of new courthouses. The SJC has begun coordinating with the Council of Ministers to expropriate land lots in Ramallah and Tulkarem to build the new courthouses.

#### Second: Developing the Notary Public Departments

The Notary Public departments are particularly important due to the nature of services they provide. The Notary Public, which functions outside the litigation process, is an official department authorized to notarize and certify all type of documents, such as various types of powers of attorneys, bail bonds, contracts, and notices. The Notary Public Department is responsible for verifying that the concerned parties are present and that all legal procedures are being followed.

A large number of people seek its services daily, and so the SJC is undertaking extensive efforts to improve and develop the Notary Public Departments.

Development efforts for the Notary Public Departments began in 2007 in Ramallah and Nablus. The offices of these departments were renovated, and the departments received equipment such as computers, photocopiers, printers, air conditioning and electronic queuing systems to improve the delivery of services to the public.

In Ramallah and Nablus, the Notary Public Departments were relocated outside the main court building which is usually crowded with lawyers, litigants, civilians' and employees. Moving the departments to more spacious, private premises provided easier access for the public and a more efficient work space for employees. The new space also provided a dedicated place for the departments' archives. The SJC is currently working in other courts to improve the Notary Public Departments.

Due the large number of citizens who seek the services of the Notary Public Department the SJC has recently provided additional qualified staff. In the Ramallah Notary Public Department there are now nine staff members working there - an increase of five staff members. This includes four Notary Public Officers, four data entry clerks and one archiving clerk. The increase was made by the SJC on the basis of a needs assessment report.

Computerization of the courts and their various departments aims at expediting services and increasing accuracy and public trust in the judiciary. In order to computerize the Ramallah and Nablus Notary Public Departments, 65,000 old notarized documents were scanned and entered into the newly designed Al Mizan database at the Ramallah Notary Public department, and about 42,000 documents in Nablus Notary Public Department, resulting in an electronic archive that can be easily and quickly accessed. The electronic archive is a significant improvement over the old paper archives, which were located in small, unsuitable rooms lacking the shelves needed for file storage.

### **Third: Developing the Judgment Enforcement Departments**

The Civil Judgment Enforcement Departments plays a vital role in the judicial process. The department can enforce shari'a, civil and foreign judgments and is the only place where the public can collect financial judgment.

During 2008, the SJC worked to provide the departments in Ramallah, Nablus, Jenin, Hebron and Tulkarem with all they needed to provide services in a professional manner. The most important achievements during 2008 were as follows:

### **1. Renovating the Civil Judgment Enforcement Departments**

During 2008, the SJC helped to redesign and renovate the working space in many Civil Judgment Enforcement Departments located in various courts. The new design was tailored to the type of work being conducted at the department, provided a more spacious work environment and a designated waiting area, and allowed easy access for the public. The upgrades to the Civil Judgment Enforcement Departments included new furniture, computer, air conditioning and a queuing system. Work has been completed in Ramallah, Nablus, Jenin and Jericho, and other Civil Judgment Enforcement Departments are now receiving upgrades and renovations.

### **2. Automating the Daily Functions of the Civil Judgment Enforcement Departments**

The computerization of the Enforcement Departments was completed in two stages: shelves, computers, printers and photocopiers were provided to the departments and data was entered into the Al Mizan automated database. (Some 5,000 cases were entered in Ramallah and 1,160 in Nablus.) This was followed by archiving the paper files according to serial numbers and a replacement of file covers with new, more durable covers. In addition to the courage Judges decisions in dismissing all pending files which lead to a drop of the pending cases. For instance in Ramallah Civil Judgment Enforcement Department pending files has dropped from 8000 cases to less than 4000 cases.

### **3. Problems and Obstacles Facing the Civil Judgments Enforcement Departments:**

There are a number of obstacles facing the Civil Judgment Enforcement Departments, as summarized below. (Some of these have led the SJC to begin modernizing the departments.)

- a. The absence of an archiving system to store and retrieve the enforcement files. Work in this area was never institutionalized.
- b. Some of the departments lacked a reliable numbering system and the retrieval of the files was undertaken according to the staff's personal knowledge and memory.
- c. The lack of a unified archiving system in all Enforcement Departments.
- d. The lack of computers, printers and photocopiers – which are vital for this type of work – in the Enforcement Departments.
- e. Many lawyers appeal the enforcement decisions simply to delay the collection process and to reduce the amount of installments paid.

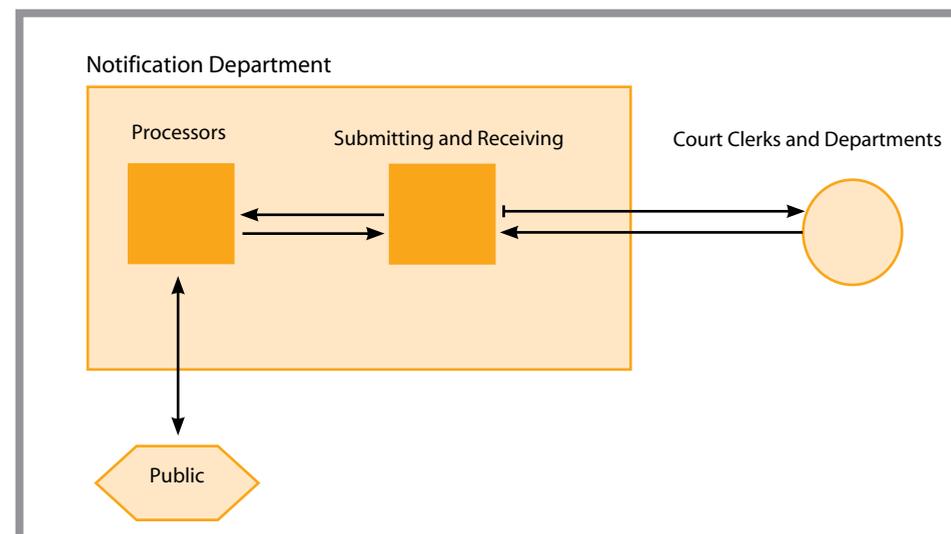
- f. Ambiguity in the applicable laws regulating civil judgment enforcement, such as the rules regulating the appeals and the rules regulating the sequestration of property.
- g. The lack of administrative staff in most Enforcement Departments.
- h. The lack of follow-up on enforcement of the judgments in favor of the Palestinian National Authority by the Public Prosecution.

#### Fourth: Notification Departments

The notification of judicial documents and court papers is key to an efficient justice system. If both parties have not been legally and properly notified, the trial cannot proceed. However, this procedure is facing significant problems, as highlighted below:

1. External obstacles affecting the notification process such as the Israeli occupation and the inability of the courts' processors to reach certain areas to serve the judicial notice.
2. Financial and logistical obstacles. Processors often do not have any means of transportation and are forced to use the public transportation system which is costly and unreliable.
3. The lack of any supervision over the processors' work because duties are performed outside the courthouse and in various areas.
4. The unreliable paper archiving system at the Notification Departments. The archiving process does not cover all the procedures associated with the notification process.
5. The lack of a computerized system that manages the notification process.
6. Unreliable names and addresses of the persons to be notified.
7. The lack of any feedback regarding failed notification attempts.
8. Lack of numbering on streets and buildings in cities, which complicates the

notification process.



The Life Cycle of the Judicial Notification According to the Existing System

#### SJC's Achievements in the Area of Judicial Notifications:

The SJC continued its efforts to reform the Notification Departments through the following steps:

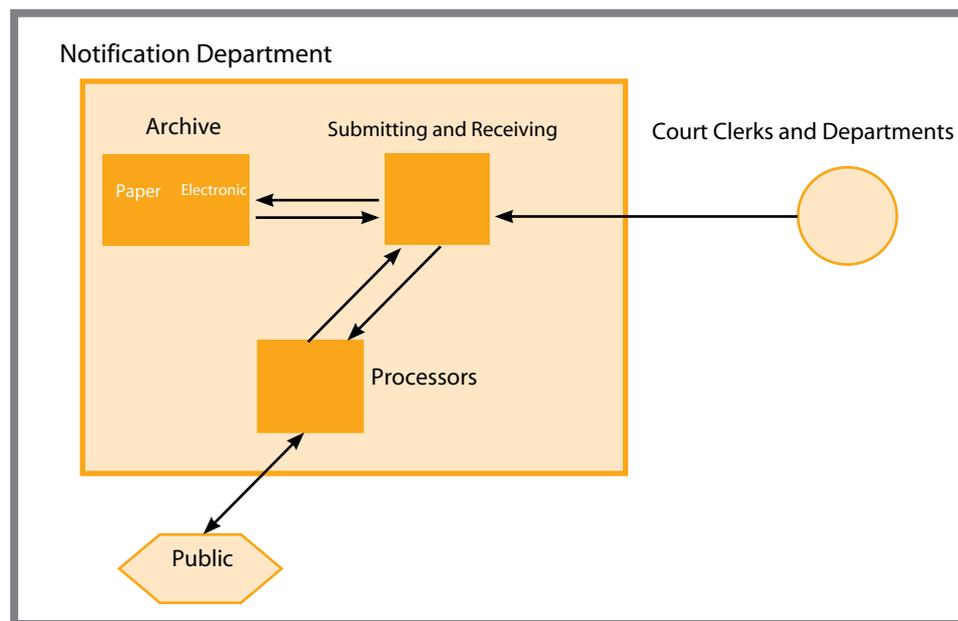
1. A decision taken by the SJC prohibits all court departments to issue any notification unless it has the complete information required by the law such as the full name of the person to be notified, a complete clear address, etc. This decision was circulated to all courts.
2. A new paper archiving system was created and installed at all Notification Departments<sup>3</sup>.
3. The SJC started the process of developing an automated archiving system to serve the Notification Departments in the courts. The automated system will transform the notification process, it will be conducted according to the

<sup>3</sup> The notifications paper archiving system works as follows :

Each processor has his own registration book where he has to register the notes he receives on a daily basis, the registration book contains the following information :

1. The name of the processor, date , case number , geographical area , who issued the note, note type, date of returning the note, notification result , explanation of result.
2. The processor must return notifications after serving them according to the law within a stated period of time defined by the Head of the Notification Department. The duration for carrying out the notification has to be sufficient to serve the notes.
3. All notes and explanations have to be documented on the notification form.
4. The Notification Department has to keep the registration book and copies of the served notes in order to supervise the processors' performance which is done by the department in addition to the inspection of the Judicial Inspection Department.

illustration below:



#### The life cycle of the judicial papers notification according to the automated system

- In 2008, the Ramallah Notification Department began to record detailed information about its work to help create the automated notification archiving system. At the end of 2008, the department had recorded information on over 10,000 notifications. This is currently being done at the Hebron Court as well.
- Efforts are still ongoing to develop Al Mizan 2 automated case management system which will help automate services delivered by the Notification Departments and will be installed in all Palestinian Courts.

#### Fifth: Keeping and Organizing Court Files in the West Bank Courts

Prior to 2006 most Palestinian courts suffered from serious problems in organizing and storing files, such as:

- Lack of space available to store all court files and documents at courthouses.
- The age and poor state of most of the case file jackets, which might have allowed the documents inside to become damaged.

- The inefficiency of the current manual system used to retrieve old case files. Numbers were hand-written, which likely caused delay in locating them, and slowed service delivery.
- The absence of an automated case file archiving system, which could help locate the files and provide the needed security.

In response, the SJC began working on finding appropriate solutions through the following steps:

#### a). Paper Files :

- Developed an automated and manual file archiving system to be introduced in all West Bank courts<sup>4</sup>.
- Developed a detailed work plan to implement the new archiving systems in the courts, in cooperation with donor projects<sup>5</sup>.
- Provided the courts with space to store pending and disposed case files and documents, whether through construction of new courthouses or the redesign of existing ones.
- Replaced the existing case files jackets with more durable, secure ones. Provided clear numbering on new case file jackets, making it easier to store and retrieve the case file.
- Moved disposed and abandoned case files in Ramallah and Nablus courts to a special storage rooms that were renovated and equipped to store the files. Renovation of storage rooms will be repeated in the other courts.

#### b). Electronic Files :

- The design, development and implementation of Al Mizan automated

<sup>4</sup> Court files archiving standards:

Palestinian court files can be divided into two categories based on the daily use of such files. The two categories are:

- Active Documents and Files: this term refers to the documents and files that the court refers to and uses regularly in daily work such as pending cases files which are still being adjudicated before the courts. Such documents are usually kept in the related Clerk's Office for easy access and use.
- Inactive Documents: this term refers to the documents and files that the court stops using on a regular basis and are not needed for the daily work of the court, such as the closed case files and the documents that can be destroyed according to the law. Such documents and files should be kept in an organized manner in a special place in the court where they can be retrieved upon demand.

<sup>5</sup> Mizan is an automated case management system, which manages criminal and civil cases from the time a case is registered till it is finally disposed.

case management system have been complete. Al Mizan has been installed at the Notary Public and the Enforcement Departments, and is functioning in the following courts :

- Ramallah First Instance and Conciliation Courts
- Jenin First Instance and Conciliation Courts
- Gaza First Instance and Conciliation Courts
- Bethlehem First Instance and Conciliation Courts
- Jericho First Instance and Conciliation Courts
- Deir Al Balah Conciliation Court
- Jabaliya Conciliation Court.

Al Mizan produces various types of notifications and statistical reports upon request.

2. The SJC's IT Department completed the automation processes, which currently includes in addition to the previously mentioned courts, the follow newly automated courts:
  - Nablus First Instance and Conciliation Courts
  - Tulkarem First Instance and Conciliation Courts
  - Hebron First Instance and Conciliation Courts
  - Qalqiliya First Instance and Conciliation Courts
  - Salfeet Conciliation Court
  - Dora Conciliation Court
  - Halhul Conciliation Court

In addition, the IT Department designed automated case management systems to be used by the courts of Appeals and the High Court.

3. The IT Department provided targeted computer training to all judiciary staff, so they would be able to use the automated system efficiently.

### **Sixth: The establishment of a judicial library**

To help provide judges, lawyers and students with up-to-date legal and judicial references, the SJC began the process of establishing a Judicial Library at Ramallah Courthouse.

The library is located in two rooms, which are some 40 square meters in size

and are equipped with four computer stations, printer, and library management software.

The library was given an initial supply of 673 books and judicial resources, with a number of judges donating valuable works to the library. Based on the successful project at the Ramallah Courthouse, judicial libraries will be established in other courts in the future.

## Recommendations

### First: Court Buildings

- a) Complete land acquisition in Ramallah and Tulkarem to build new courthouses and new offices for the SJC.
- b) Provide suitable courthouses to host the courts in Hebron, Qalqiliya and Tulkarem.

### Second: The Notary Public Departments

- a) Renovate the Notary Public Departments in all courts, following the successes achieved in both Ramallah and Nablus departments.
- b) Enter documents received by the Notary Public Departments into Al Mizan software, to facilitate storage and retrieval of information.

### Third: The Civil Judgment Enforcement Departments

- a) Review the archiving, numbering and documentation mechanism used by the Notification Departments with the aim of facilitating the notification process.
- b) Establish a new manual and electronic archiving system to store all case files and documents, allowing for easy retrieval.
- c) Request the Courts of Appeals to expedite the review process of enforcement cases. Strengthen the role of the enforcement judge in supervising requests submitted by lawyers.
- d) After a specified period, and within applicable laws, close cases that have been abandoned.
- e) Appoint full-time, qualified judges to serve as enforcement judges at the First Instance courts.
- f) Recruit additional staff and provide the departments with new equipment.

### Fourth : Judicial Notifications

- a) Conduct studies to identify the obstacles facing the notification of judicial notices.
- b) Define the needs of selected Notification Departments.
- c) Develop the organizational structure and job descriptions to empower Notification Departments.
- d) Contribute to refining some of the departments' work procedures and train staff on appropriate use.
- e) Develop an automated system for the Notification Department.
- f) Launch a public awareness campaign to inform the public about the development and reform efforts of the Notification Departments.

- g) Train the staff of Notification Departments on legal rules governing the notification of judicial notices and on the use of the automated system and the newly adopted administrative procedures.
- h) Provide processors with uniforms to facilitate their work.
- i) Develop a specialized manual for notification procedures and governing legal rules.
- j) Conduct a study on possible privatization of the notification services.

### Fifth: Supporting the Enforcement of Civil Judgments

- a) Select a number of Civil Enforcement Departments as pilot departments.
- b) Provide the selected pilot departments with equipment and supplies in addition to renovation.
- c) Work on re-engineering the procedures and train staff on the implementation.
- d) Develop a work procedures manual to unify operations across all departments.
- e) Adopt a unified archiving system in the selected pilot departments for document storage.
- f) Provide the enforcement departments with full-time cashiers



## Chapter Four

# The Judiciary's Financial and Administrative Affairs

## Chapter Four

### The Judiciary's Financial and Administrative Affairs

**a) The Administrative Report:** The Administrative Affairs Directorate is a key unit in the SJC's structure. It supports the senior management of the judiciary and manages the administrative affairs of all judicial staff, regardless of their post or duties performed.

One of the main functions of the directorate is to assist in the development and execution of programs related to human resources management. The following is a summary of the directorate's functions and recent achievements:

- Ensure that all newly appointed and transferred staff is performing the duties of their posts, and performing staff evaluation reports after the end of their probation period.
- Follow up on the affairs of the administrative staff who were appointed in 2007 and 2008 and are still in their probationary period, and ensure that those who have passed the evaluation are permanently appointed by the relevant authority.
- Provide all newly appointed staff, through their direct supervisors, with information about their rights and duties.
- Ensure that all staff members, whether new or old hires, are being paid their monthly salaries on time and without any delay.
- Provide information on salaries to the body which prepares the annual staff budget.
- Participate in of the process of promoting staff and drafting incentive lists.
- The directorate received funding for 100 judicial vacancies in 2008. That year, 14 new Conciliation Judges were appointed and 10 law graduates were granted scholarships to study at the Jordanian Judicial Institute. Currently, 78 administrative vacancies are still waiting to be filled<sup>6</sup>.

#### Obstacles and Problems Facing the Directorate:

- Lack of technical support and suitable technologies such as a human

<sup>6</sup> The available posts were distributed as follows: 32 clerks, 21 notification clerk, 6 legal researchers , 2 administrative assistants , 1 computer maintenance specialist , 1 programmer, 1 cashier , 2 accountants , 1 librarian, 2 messengers and 4 cleaners.

resources online database to connect the directorate with all courts and departments.

- Lack of staff.
- Lack of internal and external staff training to allow the directorate to adapt to new technologies and systems.
- Delay by the Civil Service Bureau in assigning newly appointed staff to their posts.
- Delay in obtaining security clearance for those newly hired by the Intelligence and Preventive Security.
- Delay in processing medical tests of newly hired personnel.
- Delay in receiving monthly salary statements from the Ministry of Finance.
- Delay by the Ministry of Finance/Public Salaries Department in executing the decisions of the Civil Service Bureau on transportation and other allowances (which generally takes between 3 to 6 months but can stretch to a year).
- Insufficient travel allowances. For instance, the cashiers who make bank deposits of the courts' revenues receive a monthly transportation allowance of only 70 NIS, although sometimes they pay triple this amount.

#### **b) The Financial Report of 2008**

According to article 2 of the Judiciary Law, the SJC has the financial powers related to the judiciary. The article gives the SJC the power to prepare the judiciary's annual budget which was approved last year and sent to the official bodies for processing. The SJC's Financial Directorate strived to provide the judiciary with all material needed despite the severe lack of funds. The directorate is composed of a number of departments that include the following:

##### **First: The Revenues Department**

Total court revenue for 2008 was 1,545,166.50 NIS. According to the financial system adopted by the Ministry of Finance, this revenue must be deposited in the state's unified general account.

##### **Second: The Expenditures Department**

The total amount of the money orders transferred by the Ministry of Finance to the SJC during 2008 was 517,750.00 NIS, according to the following detailed statement:

Money order #	Money order Type	Money order begins	Money order ends	Amount	Money order description
1	General M O	1/1/08	31/1/08	36000,00	M.O #1
2	General M O	1/2/08	29/2/08	52000,00	M.O #2
3	General M O	1/3/08	31/5/08	268000,00	M.O # 3
4	General M O	14/9/08	14/9/08	161750,00	M.O # 4
Total				517750,00	

- The total amount of the financial obligations for 2008 was 578,800.68 NIS.
- The total amount of the expenses for 2008 was 356,688.14 NIS.
- The Capital Expenditures in 2008 was 238,987.10 NIS.

##### **Third: Trusts Department**

- The West Bank trusts deposited in NIS was 12,261,591.37.
- The West Bank trusts expenditure in NIS during year 2008 was 7,078,962.21.
- The total amount of the interest on the NIS during 2008 was 23,764.73.
- The amount of trusts deposited in JD during 2008 was 2,728,175.87.
- The total amount of the expended trusts in JD during 2008 was 1,396,647.82.
- The total amount of interest on the JD account for 2008 was 48,466.69.
- The total amount of trusts deposited in USD during 2008 was 255,142.57.
- The amount of trusts expended in USD during 2008 was 172,249.29.
- The total amount of interest on the USD account was 382.72.
- The total amount of the NIS saving account during 2008 was 156,493,010.

**The total amount of interest on the NIS saving account during 2008 was 19,801.00.**

### Recommendations:

1. The judiciary should be given an independent budget in the state's public budget, to cover its needs.
2. The judiciary must receive funding for all of the judicial and administrative posts required.
3. Executive bodies such as the Ministry of Finance and the Civil Service Bureau must cooperate with the judiciary in order to expedite the judiciary's administrative and financial needs.



**Documents and Annexes**

**Figures and Court Facts**

**The Number of courts in Palestine according to the following:**

There are 34 courts in the West Bank and the Gaza Strip classified according to the following:

**Conciliation Courts:**

(12) Conciliation Courts in the West Bank (6) Conciliation Courts in the Gaza Strip

**First Instance Courts:**

(8) First Instance Courts in the West Bank and (2) First Instance Courts in the Gaza Strip

**Appeals Courts**

Jerusalem Court of Appeals

Ramallah Court of Appeals

Gaza Court of Appeals

**The High Court**

Formed from the High Court of Justice and the Court of Cassation in addition to those mentioned above. There are two Income Tax Appeal Courts, one in the West Bank and another in Gaza.

## Annex (2)

### Figures and Distribution of Judges during the Judicial year 2008 – 2009

The number of judges currently working in the judiciary has reached 181. They work in the regular Palestinian courts including the judges of the West Bank whose number has reached 136, and the judges of the Gaza Strip whose number has reached 45 judges.

Statistics show that during 2008, 47 new judges have been appointed, distributed throughout the different types of courts. One judge has been appointed in the High Court, two judges in the Court of Appeal and five judges in the First Instance Court in addition to 39 judges in the Conciliation Courts.

Six judges have retired on pension during 2008, and they are judges Sa'id Shheibar, Muhammad Subh, Mohammad Al-Huroub, Sa'id Al-Sheikh, Fawaz Al-Masa'id and Mazen Al-Sha'ar.

The Supreme Judicial Council has sent 2 judges on study missions, the first to the Yemeni Judicial Institute, and the second to participate in the program of Judicial Studies Diploma at the Jordanian Judicial Institute for the year 2008/2009 as a pre-requisite to appointing them as Conciliation judges in the future.

The number of female judges in the West Bank has reached 16, in the Gaza Strip 5, bringing the total female judges to 21.

#### Distribution of Judges

Court	West Bank	Gaza Strip	Total
High	15	8	23
Appeal	14	12	26
First Instance	48	25	73
Conciliation	59	0	59
Total	136	47	181

## Annex (3)

### Distribution of Judges in First Instance Courts

The number of First Instance judges is 73-- 48 in the West Bank and 25 in the Gaza Strip.

Distribution of First Instance judges in the Northern governorates:

Number	Court	Number of Judges
1	Ramallah First Instance Court	10
2	Nablus First instance Court	9
3	Hebron First Instance Court	9
4	Bethlehem First Instance Court	4
5	Jericho First Instance Court	4
6	Jenin First Instance Court	4
7	Tulkarem First Instance Court	4
8	Qalqilya First Instance Court	3
	Total	48

#### Annex (4)

##### Distribution of Conciliation Court Judges

Distribution of Conciliation Court judges in the Northern Governorates:

The number of Conciliation Court judges in the Northern Governorates is 59. Of these judges, 45 are currently working distributed in courts as the tables below demonstrates. In addition, 14 judges were appointed on October 1st, 2008. The newly appointed judges are undergoing training in the Palestinian Judicial Institute and in the Palestinian courts to qualify them to work in the Conciliation Courts, upon completion of training.

Number	Court	Number of judges
1	Jericho Conciliation Court	2
2	Tulkarem Conciliation Court	3
3	Hebron Conciliation Court	5
4	Salfeet Conciliation Court	1
5	Nablus Conciliation Court	8
6	Toubas Conciliation Court	1
7	Bethlehem Conciliation Court	3
8	Jenin Conciliation Court	4
9	Doura Conciliation Court	4
10	Halhoul Conciliation Court	2
11	Ramallah Conciliation Court	9
12	Qalqilya Conciliation Court	3
13	The Palestinian Judicial Institute (Training)	14
	Total	59

#### Annex (5)

Number of New Cases filed and Cases Disposed at Conciliation and First Instance Courts in the Northern Governorates during 2008

Conciliation Courts	New filings/2008	Disposed Cases/2008
Civil Filings	5136	5053
Criminal Filings	18,167	15,901
Traffic Filings	49,642	50,598
Total	72,945	71,552
First Instance Courts		
Civil Filings	2144	2099
Civil Appeal	671	762
Criminal Appeal	1146	1085
Crimes	609	348
Total	4570	4294

### Annex (6)

Table indicating Cases Backlog at Conciliation and First Instance Courts in the Northern Governorates during 2008

Conciliation Courts	
Civil Cases	10435
Criminal Cases	37703
Traffic Cases	106
<b>Total</b>	<b>48244</b>
First Instance Courts	
Civil Cases	4294
Civil Appeal Cases	682
Criminal Appeal Cases	914
Crime Cases	4283
<b>Total</b>	<b>10173</b>

### Annex (7)

High Justice Court Agenda in the Northern Governorates during 2008

Months	Pending from previous month	New Monthly Cases	Total	# of Disposed Cases Monthly	Current Pending	Percentage of disposed / new Cases	Percentage of disposed / Total
January	222	21	243	10	233	48%	4%
February	233	17	250	21	229	124%	8%
March	229	24	253	17	236	71%	7%
April	236	33	269	25	244	76%	9%
May	244	35	279	33	246	94%	12%
June	246	36	282	30	252	83%	11%
July	252	39	291	27	264	69%	9%
August	264	50	314	12	302	24%	4%
September	302	37	339	39	300	105%	12%
October	300	38	338	28	310	74%	8%
November	310	89	399	40	359	45%	10%
December	359	58	417	28	389	48%	7%
<b>Total</b>		<b>477</b>		<b>310</b>			

### Annex (8)

#### Cassation Court Agenda in the Northern Governorates during 2008

Month	Pending from Previous month	New Monthly Cases	Total	Disposed Monthly Cases	Current Pending	Percentage of Disposed / New Cases	Percentage of Disposed / Total
January	140	44	184	4	180	9%	2%
February	180	38	218	28	190	74%	13%
March	190	36	226	26	200	72%	12%
April	200	43	243	25	218	58%	10%
May	218	50	268	50	218	100%	19%
June	218	46	264	43	221	93%	16%
July	221	42	263	20	243	48%	8%
August	243	27	270	0	270	0%	0%
September	270	5	275	62	213	1240%	23%
October	213	13	226	80	146	615%	35%
November	146	50	196	37	159	74%	19%
December	159	54	213	43	170	80%	20%
<u>Total</u>		448		418			

### Annex (9)

#### High Court Agenda in the Northern Governorates during 2008

Months	Pending from previous month	New monthly Cases	Total	Disposed monthly Cases	Current Pending	Percentage of Disposed / New Cases	Percentage of Disposed / Total
January	12	1	13	1	12	100%	8%
February	12	4	16	4	12	100%	25%
March	12	4	16	1	15	25%	6%
April	15	5	20	6	14	120%	30%
May	14	1	15	2	13	200%	13%
June	13	2	15	3	12	150%	20%
July	12	3	15	7	8	233%	47%
August	8	4	12	1	11	25%	8%
September	11	3	14	1	13	33%	7%
October	13	1	14	1	13	100%	7%
November	13	4	17	2	15	50%	12%
December	15	1	16	0	16	0%	0%
<u>Total</u>		33		29			

## Annex (10)

### Instructions

#### On the occasion of the beginning of the judicial year 2008/2009

After studying the law of Civil and Commercial Procedures No (2) for the year 2001 and the Law of Criminal Procedures,

And based on judicial inspection reports,

And for the purpose of best performance before the courts

And after the agreement of the Supreme Judicial Council

We issued the following instructions:

#### First: Law of Civil Procedure and Evidence:

##### Article 1

##### The Claim

#### Conditions that should be made available in the civil claim:

1. Name of court.
2. Name of plaintiff, status, work address and residential address (the plaintiff's address should be clear to facilitate speedy notification).
3. Name of attorney representing the plaintiff with his clear and complete address. In the cases where the address of the plaintiff's attorney is not clear, the attorney shall be asked to state a designated address for notification purposes.
4. Attorneys in Jerusalem who do not have offices within the jurisdiction of the court shall specify an address for notification purposes through a written statement attached to the case documents.
5. The name of the defendant, status, profession, address of work and residence. The address must be clear enough to facilitate notification.
6. In the event that the plaintiff or the defendant has lost eligibility or is lacking it, then it should be stated.
7. Subject of the claim.
8. Case value to be stated as soon as possible in the event that it has an unspecified value.

9. Facts and reasons for the case and its date of issue in addition to the plaintiff's requests that demonstrate that the court has the jurisdiction to look into the case.
10. In the event that the subject of the case is a fixed or variable asset, the claim shall include enough details to distinguish it from others.
11. Signature of the plaintiff or his representative taking into consideration the cases where claims cannot be accepted unless they are signed by a certified attorney in accordance with the law of civil and commercial procedures and the law of certified attorneys.

##### Article 2

The plaintiff shall present to the clerk the original document of his claim and a number of copies equal to the number of the defendants with the following attachments:

1. A file of documents supporting his case including a list of the contents of this file.
2. A list of any written evidence that is kept by others.
3. A list of names of witnesses, their complete addresses, and facts which he desires to be proven through personal evidence from each witness separately.
4. The plaintiff or his representative must sign each of the documents included in the file. The signature must be accompanied by a declaration that the document is an exact copy of the original in the event of it being a copy.

##### Article 3

1. After the fees are paid, the clerk shall register the case the same day in the case register with a serial number according to the precedence of presenting it and the claim and all attachments are stamped with the court stamp. Next to the stamp, the date of registration shall be stated indicating the day, month and year. All this shall also be indicated on any copies of the claim.
1. The defendant shall be notified by means of a copy of the claim, attached to it a copy of all the documents and the warrant as indicated in clause (1) of Article (2) of these instructions.

#### Article 4

1. The case and all its relevant attachments including supporting evidence shall be handed to the court clerk in a special file indicating on its cover the name of the court, names of the litigants, the serial number of the registration of the case, and the date of registration including day and year, numbering all its documents with serial numbers and indexing its contents and numbers on its cover.
2. A copy of the case and its attachments shall be handed over to the notification officer so they can notify the defendant.

#### Article 5

##### Defendant's Response

1. The defendant shall present to the court clerk within 15 days from the day following the date of notification of the case a written response on the case submitting the original and a number of copies matching the number of plaintiffs, attaching to it the following:
  - A. A file that includes the documents that support his response with a list of the contents of this file.
  - B. A list of any written evidence that is kept by others.
  - C. A list of the names of witnesses, their complete addresses, and facts which are desired to be proven through personal evidence from each witness separately.
2. It is possible for the court, as stipulated by Article 64, Law of Civil and Commercial Procedures, to allow the defendant to present his response if he attends the first hearing that the court holds to look into the case, with the condition that the defendant includes with the response all what is stated in clauses (A,B and C) in Paragraph (1) of this article,
3. In the event that the defendant presents a written reply to the claim within the specified period to present his response, he or his representative must sign an affirmation that the document is the exact copy of the original, if it is a copy.

#### Article 6

1. The names of the plaintiff and the defendant and the witnesses shall/must include the personal name, the father's name, the grandfather's name and

the surname. The witness's address must be clearly defined to facilitate his notification.

2. In the event that the defendant is abroad, his last local address must be stated.

#### Article 7

Regarding claims presented before the court, and so that disposition of the claim is not delayed, the court shall and according to the phase where the claim has reached, oblige the litigants to specify their evidence and present it in compliance with the stipulations of the previous articles whether those related to written evidence or oral evidence.

#### Article 8

1. When the Judge decides upon urgency to look into a request in the presence of the defendant, he shall be restricted by Article (104), of the Law of Civil and Commercial Procedures to determine a date for a session within a period of time that does not exceed 7 days to review the file and to notify the defendant that he must attend.
2. In the event that it is not possible to notify the defendant, the Judge of urgent matters shall go on with the request in the attendance of one party.
3. Postponing between one session and another shall be for a limited number of days and the request must be made as a matter of urgency.

#### Article 9

Activating the ruling of Articles (90,91), of the Civil and Commercial Procedures Law, this is carried out by including the request with the claim and working on them at the same time so that disposition of the claim is not delayed.

#### Article 10

Activating the provision of Article (95) of the Law of Civil and Commercial Procedures.

#### Article 11

Activating the provision of Article (87) of the Evidence Law by ruling that the witness who has been properly notified and has not attended shall pay the amount of fine stipulated in the stated article.

In the event that the witness fails to attend after demanding of him to attend for the second time, the court shall issue him a subpoena.

#### Article 12

The court shall demand of those litigants interested in inviting the witnesses through the court to deposit in the court fund an amount that is sufficient to cover the witness's expenditure as stipulated by Article (100), of the Evidence Law.

#### Article 13

##### Defining points of Agreement and Disagreement

The court shall implement the provision of Article (120) of the Civil and Commercial Procedures Law by defining the points of agreement and disagreement in the issues related to the claim and by recording this in the session minutes.

#### Article 14

1. Except for the cases in which the reasons must be stated in the records, the court may not postpone a claim for a period of time that exceeds 30 days each time, or more than one time due to one reason that is related to one of the litigants.
2. The court may not retain a claim for more than 30 days.

#### Article 15

##### Simplified Procedures Claim

1. The simplified procedures claims which are stipulated in the first section of Chapter 13 of the Law of Civil and Commercial Procedures (Articles 259 and what follows) shall be presented to the court supported by the phrase 'Simplified Procedures.'
2. In simplified procedures claims, pleadings shall not be exchanged and the

court shall assign a session to look into the claim within 15 days of the date of presenting its rules of which the litigants shall be notified.

3. A copy of the claim and a copy of the documents supporting the defendant's claim shall be attached to the defendant's notification.

#### Article 16

##### Custody

1. A request for custody is made to the Judge of urgent matters or to the court authorized to deal with the claim, supported by documents relevant to Article (1/266) of the Civil and Commercial Procedures Law.
2. The request for custody must be accompanied by a bail as stipulated by Article 2/266 of the Civil and Commercial Procedures Law.
3. A review of the request shall be conducted, sessions shall not be held and oral evidence shall not be given, and the request is an urgent temporary procedure and there is nothing urgent that requires hearing this evidence.
4. The judge shall issue his verdict in accordance with the conditions stipulated in Article (266) of the law.
5. If an appeal to the decision of custody is accepted, the court shall provide the court of appeal with photo copies of the documents which support the custody so that the proceedings of the original claim which has requested the custody shall not be hampered.

#### Article 17

1. The judges and the clerks shall indicate in their personal agendas the official holidays, religious as well as national, at the beginning of the judicial year to avoid assigning sessions on those days.
2. Courts shall not assign any sessions on the first work day at the beginning of every month and the clerks shall review claims on that day and compare them with the register, and fill in the table.
3. The executive departments shall close on the first two work days of the beginning of every month whereby a review of the claims, comparison of records, filing and register filling are carried out.

#### Article 18

In the event that the defendant's address is not clear, the court shall decide to assign it to the notification officer in order to notifying the defendant with the instructions of the plaintiff or his representative.

### Second: Criminal Procedures

#### Article 19

The heads of the Appeals and First Instance Courts shall inspect reform and rehabilitation centers (penitentiaries) and the detention centers in their departments and shall practice their authorities as stipulated in Article (126) of criminal procedures.

#### Article 20

In the event that an appeal to the decisions relevant to acquittal is accepted, the First Instance and Conciliation Courts shall send an exact copy of the file related to the subject so that the course of the claim shall not be hampered.

#### Article 21

In the cases where notification of litigation in crimes, felonies and misdemeanors, is not possible through a notification officer, the court shall assign the task of notification to policemen as stipulated by Article (185) of the Criminal Procedures Law.

#### Article 22

The courts shall take into consideration the provisions of Article (186) of the Criminal Procedures Law to notify the litigants including the prosecution in respect to the attendance of the litigants.

#### Article 23

The courts shall activate the provisions of the first paragraph of Article (229) of the Criminal Procedures Law in the cases when it is impossible to subpoena a witness before the court for any reason.

#### Article 24

The courts shall activate the provision of Article (231) of the Criminal Procedures Law.

#### Article 25

The Conciliation Courts shall activate the provision of Article (304) of the Criminal Procedures Law.

#### Article 26

The Conciliation Courts shall activate the provisions of the summarized standards as stipulated by the Criminal Procedures Law, (Article 308, and what follows it).

#### Article 27

Concerning crimes of harm, the judge shall not issue a verdict of the claim before a decisive medical statement defining the period of impairment is produced.

#### Article 28

Any felony claim shall not be recorded in the court register without referring both parties-- the plaintiff and the defendant with the documents of the complaint to the court.

#### Article 29

Before registering any new criminal cases from the prosecution, the clerks shall verify names and addresses of defendants and witnesses on condition that their names are made up of 4 parts and the addresses included in the indictment bill are clear.

Issued in Ramallah, September 1, 2008.

Judge Issa Abu Sharar

Head of the High Court

Chief Justice.

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## Annex (11)

### On the Visits of Executive Officials to the Courts

Directive

The Respectable Heads of First Instance Courts

Subject: Court Visits

Some officials of the Executive Authority have continued to pay visits to the courts and to meet with the judges without the knowledge of the Chief Justice's Office who is informed of the visit by the head of the court once the visit is over. During the visit some issues pertaining to the law are discussed, which constitutes an assault on the independence of the Judiciary and interference with the Judicial Authority.

Consequently, Heads of the Courts shall refrain from receiving any executive official without obtaining a prior permission from the Chief Justice's Office for the visit and determining its subject.

Respectfully,

Judge Issa Abu Sharar  
Head of the High Court  
Chief Justice

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## Annex (12)

### On Court Police

Directive

The Respectable Heads and Judges of Regular Courts

Subject: Court Police

We have noticed that the court police generally go to the court clerks and enter the court chambers. They also interfere with the judges and employees regarding the documents and claims at the courts. Consequently it is hoped that you will instruct those concerned at your side not to allow any policeman to enter at the clerks' offices or the court chambers or to interfere with any claims at the court under the pretext of responsibility as the tasks of the police are limited only to maintaining the security of the court in the allocated place inside the court—and not seating themselves in the chambers of the judges or the employees, or wandering in the court chambers distracting employees and interfering with their work.

Respectfully

Judge Issa Abu Sharar  
Head of the High Court  
Chief Justice Office

Notice: The Chief Clerk shall provide the Head of Court with a list of the names and signatures of all court employees who have been notified of the directive, and the Head of Court shall provide us with the list.

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## Annex (13)

### On the Inspection of Reform and Rehabilitation Centers (Penitentiaries)

Respectable Heads of Appeal Courts

Respectable Heads of First Instance Courts

Respectable Heads of Conciliation Courts

Subject: Inspection of Reform and Rehabilitation Centers (Penitentiaries)

With reference to the subject stated above and following the Directive, No: 20/2107 dated 31/8/2008,

I hereby reiterate the necessity of compliance with the contents of the Directive above, which is implementing the provisions of Article (126) of the Criminal Procedures Law for the year 2001 which states that regular inspection visits to reform and rehabilitation centers (penitentiaries) and detention centers shall be implemented. These visits shall include the detention centers under the General Intelligence Service, the Preventive Security Service and the Military Intelligence Service. They shall also include reviewing the cases in which detention is without legal justification, and assessing the extent of respect of human rights in these penitentiaries, and providing us with the regular reports.

Respectfully

Judge Issa Abu Sharar

Head of the High Court

Chief Justice

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## Annex (14)

### A Memorandum of Understanding Between The Judicial Authority and Civil Society Organizations

#### A Memorandum of Understanding

#### Between the Judicial Authority and Civil Society Organizations

Based on the Palestinian Basic Law which affirms the principle of rule of law whereby all the authorities, apparatuses, bodies, institutions and individuals are subject to the law, and based on the principle of balanced separation between the three authorities, and the activation of equal control between them, and the respect of each of them for the jurisdiction of the other authority,

And based on the provisions of the Basic Law which state that all Palestinians are equal before the law and the Judiciary, and which obligate all authorities to respect the Declaration of Human Rights and its fundamental freedoms in addition to compliance with all declarations and international treaties which emphasize the Declaration of Human Rights and its fundamental freedoms,

And based on the principle of the independence of the Judiciary whereby any authority may not interfere in the Judiciary or in the affairs of the justice, and similarly may not interfere in the independence of the Judges who are subject to no higher authority than that of the law and who cannot be dismissed from office except in the cases allowed by the Judicial Authority Law.

And in consideration of the joint national interest between the Judicial Authority represented by the Supreme Judicial Council and the civil society organizations generally, and those who have judicial interests, specifically,

This Memorandum of Understanding has been concluded after a sequence of consultations and meetings as both parties aspire to reinforce the structuring of the Palestinian Judicial Authority represented by its administration and its courts with all their types and degrees, whereby both work to achieve an independent, impartial, and effective Judicial Authority trusted by the Palestinian citizens, capable of fulfilling justice in clashes which happen among the citizens themselves, and the clashes which take place between the citizens and the official authorities. It will also guarantee the citizens' right to litigation and just, impartial and effective and prompt trials, in addition to guaranteeing the implementation of court decisions without stalling, or adjournment, which are of equal concern to the Supreme Judicial Council as well as the civil society organizations.

The Supreme Judicial Council and civil society organizations which are

concerned with human rights and the rule of law and good governance will work sincerely to fulfill the principles and contents of the memorandum with respect and appreciation of the responsibilities of each party:

First: The Supreme Judicial Council shall make it possible for civil society organizations, privately and for the citizens, generally to review the information related to the work of the Judiciary, its proceedings and rulings, including its annual and seasonal reports and any other unclassified reports considered as 'confidential.' It shall work on publicizing them through different means including its website. It shall also express its readiness to cooperate with any institution that requests public information that is available at the Council.

Second: Based on the principle of publicizing trials, the Supreme Judicial Council shall guarantee the right of the civil society organizations to be in court sessions and space will be provided for their presence and likewise information sharing, without the need for prior procedures related to this matter.

Third: The Council shows its readiness to meet regularly with the civil society organizations for the sake of communication and consultation so as to reinforce the independence and integrity of the Judiciary and to achieve justice for the citizens.

Fourth: Working by the principle of the right of the civil society organizations to be informed of the progress of the courts and the Supreme Judicial Council, the Supreme Judicial Council shall undertake to enable these organizations in this regard, and to provide them with all the tools, means and information. The Supreme judicial Council shall also demonstrate its readiness to receive any objective reports or complaints relevant to the performance of the courts or the administration of the Judiciary presented by the related civil society organizations.

Fifth: The Supreme Judicial Council shall show its readiness by responding objectively to any complaint or written letter that it receives from the related civil society organizations. The Council shall also hand the introduction to the letter or the complaint to the organization indicating its receipt of the complaint or the letter upon handing it.

Sixth: The Supreme Judicial Council shall work persistently to convey the reports and studies published by the civil society organizations which it receives and which deal with the judicial and legal affairs of the judges and the employees of the Judicial Authority.

Seventh: The related civil society organizations shall show their complete support of the independence of the Judicial Authority, its objectivity and impartiality, and they shall show their compliance by avoiding any activity that might weaken the independence of this authority or infringe upon the integrity

of its judges.

Eighth: The Judicial Council shall respect the role of the civil society organizations in monitoring the courts and the administration of judicial affairs.

The compliance with the rules and contents of this memorandum is a matter that should reinforce and develop the relationship between the Supreme Judicial Council and the civil society organizations so as to contribute to reinforcing the independence of the Judicial Authority, its impartiality, objectivity and openness towards the citizens which shall be the basis of all dealings.

December 15th, 2008

The Supreme Judicial Council

Civil Society Organizations

## **Institution/Organization**

- The Supreme Judicial Council
- Transparency Palestine - Aman
- Palestinian Center for Human Rights
- Human Rights and Democracy Media Center 'Shams'
- Al-Haq – Law in the Service of Man
- MIFTAH
- Mada – Palestinian Center for Development and Media Freedoms
- Center for the Defense of Freedoms 'Hurrayat'
- Treatment and Rehabilitation Center for Victims of Torture
- Jerusalem Legal Aid and Human rights Center
- Addameer Prisoners' Support and Human Rights Association
- Arab Center for Democracy and Elections Watch
- Arabic Media Internet Network - AMIN
- The Palestinian Working Women Society For Development.
- Holly Day Trust
- Ramallah Center for Human Rights Studies
- Woman Center for Legal and Social Aid
- Mandela Institute for Human Rights
- Insan Center for Human Rights and Democracy

## **Annex (15)**

### **On the Occasion of the New Judicial Year**

#### **The Respectable Heads and Judges of the Regular Courts**

On the occasion of the new judicial year which coincides with the beginning of the blessed month of Ramadan, the Supreme Judicial Council is honored to present the respectable judges and employees working in the courts with its felicitations and wishing them that this year will be a good year for all Palestinians.

The Supreme Judicial Council during the last two years has exerted intensive efforts to develop the Judiciary and the judges through establishing the principle of the independence of the Judiciary as an institution and the independence of the judge as an individual. The Council has also worked hard against all forms of interference, in addition to recruiting several new judges and administrative employees, and providing the suitable buildings, equipment and furniture for them. All this effort in order to confront the accumulating burdens encumbering the courts leading to the resolution of the conflicts between litigants within a reasonable time. Furthermore, and for the first time during the new year and the next two years, the Council is working according to a strategic plan adopted in May 2008 which includes the development of the different Judicial elements according to a defined strategic vision.

On this occasion, the Council would like to give a number of instructions related to the course of work in the courts and in the different departments of the Council according to the following:

#### **First: Administrative and Disciplinary Matters**

The Supreme Judicial Council reasserts the necessity of the commitment of all the judges and administrative employees working in the courts and in the different departments of the Council to the daily and official working hours which means attendance in their place of work starting from 8 a.m. until 3 p.m. This commitment is an obligatory matter subject to monitoring and accountability and will not be subject to compromise.

The Council reasserts the necessity of the judges to reside in their place of work so that they may be able to review the claims presented to them within the limited time.

The Council reasserts the necessity of organizing and regulating holidays with all their different types, and abiding by all the relevant directives. It is also not

admissible that any holiday be taken (with the exception of urgent leaves) except according to the applied laws.

The Council reasserts the necessity of abiding by the applied laws in relation to internal and external communications in form and subject, especially the necessity of communication through direct officials.

### **Second: Compliance with the Ethics of the Profession and the Rules of Professional Conduct**

1. The Council reasserts generally the necessity of abiding by the applied professional rules, whether those stipulated in the valid legislation and at the forefront the Judicial Authority Law No 1 for the year 2001, and the Code of Judicial Conduct issued by the Council on May 10, 2006, or those rules which the jurisprudence and the Judiciary have decided upon.
2. The Council would especially like to reiterate the following conduct rules:
  - Compliance with the official uniform and the black robe while seated during court sessions.
  - Giving attention to outer appearance.
  - Tracking new legislations and being updated on the decisions issued by the High Court and continuing to seek education and knowledge.
  - Equality between litigants and not favoring anyone at the expense of another, and in this context, there is no difference between the attorney and the prosecution.
  - The judge shall inform the Council of any possible assaults on the independence of the Judiciary from any possible party, whether through a telephone call, or through communications and letters, or through any interference that might take place outside working hours.
  - The judge shall refrain from asking help from any party.
  - No statements shall be given to the media or any other party without permission from the Chief Justice's Office.

### **Third: Judicial Inspection**

Within the framework of implementing the Strategic Plan for the years 2008 – 2010, the Supreme Judicial Council has restructured the Judicial Inspection Department in 2008, and has supported it with a number of judges, employees in addition to supplies. In this context, the Council would like to reiterate the following:

1. The Judicial Inspection Department shall conduct regular and sudden visits to all the courts that are subject to inspection. During these visits, work proceedings in courts will be reviewed, in addition to the qualitative and quantitative performance of the judges, the performance of the clerks and the other court departments. The necessary reports and recommendations shall be raised to the Supreme Judicial Council so that it may take the relevant appropriate reform procedures.
2. The Council shall take its decisions related to promotion and accountability based on the reports of Judicial Inspection.
3. All judges and administrative employees shall cooperate with the Judicial Inspection Department and provide it with all the necessary data and information.

### **Fourth: Judicial Training**

The Supreme Judicial Council gives high importance to judicial training with its 2 components: the elementary training component for the newly appointed judges, and the continuous training for all judges. In this context, the Council would like to reiterate that judicial training is part of the requirements of the profession and that each judge called for training shall accept and participate in the training actively, and the Council shall ensure that the judicial training will not disrupt work proceedings at the courts.

### **Fifth: Case Management**

The Council gave within the Strategic Plan for the development of the Judiciary for the years 2008 – 2010, high importance to the subject of case management which aims to put an end to judicial backlog, and in this context, the Council would like to reiterate the following issues:

- A. Sessions shall not be assigned during official holidays and appointments.
- B. Each judge shall observe and organize his files at the clerk's office, and make sure in the first session that the names of litigants and their addresses are given correctly and completely.
- C. Each judge shall revise the files that are to be looked into, giving them enough time before the appointed session.
- D. Commitment to typing the minutes of the session in its specific file using Al-Mizan program and ensuring that all slots of the program are filled by the registrars and clerks.
- E. It is not acceptable to postpone reviewing a case for the same reason more than once, and it is necessary that the judge exercise his role in managing

the court effectively and not allow any litigant to stall and postpone for any reasons other than those reasons defined by the law.

- F. Obligating litigants to specify their written and oral evidence and to work by the principle of filing all documents.

Finally, the Council would like to emphasize that the position of the judge is of the utmost significance and sensitivity, and primarily it is an assignment, not a tribute, requiring of each judge to feel the importance of this responsibility before God, the law and citizens, hoping that we will be able to realize tangible achievements in the disposition of all types of claims, especially crimes.

Respectfully

Judge Issa Abu Sharar

Head of the High Court

Chief Justice