The Palestinian Judicial System

Legal and Legislative Framework for the Palestinian Judicial System

- The Palestinian judicial system differs from other systems prevailing in the various countries of the world. Thanks to the many rulers of the West Bank and Gaza Strip within the last century, there still exists a patchwork of Ottoman, British, Jordanian and Egyptian laws in operation. Indeed, the first decree of the President of the PNA, issued on 20 May 1994, declared that the legislation and laws that were effective prior to 5 June 1967 in the WBGS should continue to be valid. However, in the past 14 years the PNA has made strenuous efforts to unify the system, particularly with laws pertaining to the economy and the judicial system.

- The Palestinian Legislative Council issued a package of laws on the Palestinian judicial system, the most important of which were the Judicial Authority Act and the Penal Procedures Law.

Palestinian Courts

In 2006, there were 37 courts in the WBGS, including:

- 20 Magistrate's Courts
  (14 in the WB and 6 in the GS);
- 11 Courts of first instance
  (8 in the WB and 3 in the GS);
- 3 Courts of appeal, in Jerusalem, Ramallah and Gaza;

- The judicial system also includes the Higher Courts which consist of the High Court of Justice and the Courts of Appeals and Cassation;

- In addition, there are two courts of appeal for income tax, one in the WB and another in the GS.

In 2006, there were 140 judges at the regular courts, with 93 in the WB and 47 in the GS. Among these judges, 14 were women, with 9 of them working in the WB and 5 in the GS.

Strengths of the Palestinian judicial system

- **Issuance of the Constitutional Court Law in 2006 and the establishment of the Constitutional Court.** This court is competent to control the constitutionality of laws, regulations and the interpretation of the Basic Law provisions and other laws in the event of conflict on the rights, duties, and functions of the three authorities (legislative, executive, and judicial).

- **Issuance of the Civil and Commercial Procedures Law.** Under this Act, courts hear civil proceedings pertaining to both Palestinians and foreigners. The law devotes a special chapter to address urgent cases, which gives greater flexibility for the judiciary to consider and act on a large number of exceptional issues that are considered particularly pressing. This is intended to limit any ongoing damages that may be caused to the parties in a dispute.

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- **Dealing effectively with cases related to bouncing checks and other business matters.** Palestinian courts became more efficient and interested in dealing with matters related to the issuance of worthless checks and other fraudulent commercial papers, and the banking system also takes disciplinary action against individuals and companies which issue checks without sufficient funds to pay them.

- **Palestinian courts adjudicated 101,926 cases in 2006, which represents 88.3% of the total cases submitted.**

Efficiency of commercial contract enforcement in Palestine

The World Bank "Doing Business" survey ranked Palestine 125 out of 176 economies on the enforcement of contracts. This was slightly behind Israel but ahead of Jordan, Syria and the UAE.

- **Number of procedures**. The survey noted that number of procedures, which includes all those that demand interaction between the parties or between them and the judge or court officer, amounted to 44 compared with 39 in Jordan and 55 in Syria.

- **Time**. The survey found that the average length of time between which the plaintiff files the lawsuit in court until the moment of payment amounted to 700 days. This compares with 689 days in Jordan, 872 in Syria and 890 in Israel.

- **Cost**. The cost includes court costs, enforcement costs and attorney fees, and measures the likely cost of going through court procedures, expressed as a percentage of the claim. The survey noted that the cost of such litigation in Palestine was 21.1% of the claim, compared with 25.3% in Israel, 29.3% in Syria and 31.2% in Jordan.