



WEEKLY REPORT

Weekly Report 30/8/2009

Activities in the West Bank:

A Comparative Study:



"A Comparative Analysis of the Law on the Supreme Constitutional Court of the Palestinian National Authority"

Under funding from the European Commission, MUSAWA has undertaken a study on the need for a Constitutional Court to be established in Palestine under the Palestinian Basic Law and the Law on the Supreme Constitutional Court 2006 (LSCC). The International Bar Association, through its Human Rights Institute (IBAHRI), is an Associate in this project. In 2009 Musawa organized a series of workshops in the West Bank and Gaza to gain an understanding of local opinion on LSCC. The organization then convened a roundtable discussion in Cairo on 11 and 12 May 2009, bringing together experts (who also conducted the current study) from Palestine, the region and internationally, to discuss the findings of the first stage of the project and to consider how and to what extent the LSCC might be amended in the light of experience in other jurisdictions. The IBAHRI participated, inviting three constitutional experts from key jurisdictions (Canada, France and South Africa) to share their thoughts on the draft review. Following this roundtable discussion, the IBAHRI compiled reports from a team of constitutional experts from around the world to analyze and comment upon both the LSCC itself and the viability of implementing the LSCC and establishing a Constitutional Court in the Palestinian territories at the present time. The comments and findings are as follow:

- The LSCC must defend and respect the rule of law — the Palestinian judiciary (and the PNA itself) cannot claim legitimacy without proof of a commitment to establishing a legal system and state that is based on the respect of the Basic Law.
- The Court must be strong and independent.
- The Court must make decisions with a high degree of legitimacy and transparency.
- The Court must work to safeguard and protect commonly shared values especially human rights.
- The LSCC must ensure that the Palestinian judiciary maintains a coherent jurisprudence.

Further, the study focused on the steps to formation of the court, in which a number of legal articles were analyzed and related to the formation process. The study also introduced the rights and the duties of members of the court according to several legal articles. Moreover, the section on the suitable implementation of the court provides conditions under which the LSCC should be established. Finally, the study illustrated the recommendations emitted by the experts on each step and process. For example:

- Ensure the provisions on jurisdiction, the independence of judges, and the main characteristics of proceedings in the Basic Law and the LSCC conform.
- Consider including political qualifications for the appointment of members to the Court.
- Amend or remove Article 49 granting administrative supervisory powers to the Minister of Justice to protect against executive intervention in the administrative affairs of the Court.
- Most experts urge postponing implementation of the LSCC until Palestine achieves greater political stability, has a properly functioning Amended Basic Law, and has a properly appointed government.
- In addition to many other recommendations.

(See the attached annex 1)

New Publication:



Possible Legal Mechanisms for Trailing War Criminals According to Roma Agreement

Funded by the Norwegian Representative, Musawa has published a new book titled "The Possible Legal Mechanisms for Trailing Israeli War Criminals According to Roma Agreement". The book was published in 76 pages, involving legal issues and studies concerning the international law and human rights, legal international views on the Israeli siege on Gaza, international agreements, legal notifications sent by Musawa to local and international parties, Roma Agreement (full text), and the legal mechanisms for trailing Israeli war crimes. The studies included were conducted by a number of participants in the international conference in Le Masol including Mr. Nabile Ramlawee Former Palestinian Ambassador at the United Nation, Advocate Anees Fawzee Qasem from Jordan, Dr. Nasser Ben Hamad Al Khaleefa from Qatar, Dr Abd Allah As'ad from Egypt, and the Executive Manager for the Arab Cultural Club Dr. Hassan Nafe' from Egypt, and the general manager of the club Prince Dr. Hassan from Amman. (See annex 2)

Up Coming Events:

- Musawa has updated and renewed its website, which will be launched soon.