

Conference on
The Legislative Status in the Palestinian Territory
Reality and Prospects

Institute of Law, Birzeit University
4 December 2012

Conference Programme

Registration

09:00 – 09:15

Opening Session

09:15 – 09:45

Khalil Hindi, President of Birzeit University

Hasan Al- Ouri, Legal Advisor to President of the Palestinian National Authority

Michael Mertes, Director of the Konrad Adenauer Stiftung

Jamil Salem, Director of the Institute of Law

Session I

The Political Division: Between Law and Politics

09:45 – 10:45

Highlighting the Palestinian political division, this session provides a legal assessment of the agreements signed between Fatah and Hamas and explores obstacles that have prevented effective implementation. The session assesses national election laws from a political perspective. A legal assessment also explores the state of emergency, relevant implications, and distinction from the ‘case of necessity’.



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Session Moderator: Ali Abu Dayyak

Session Rapporteur: Razan Barghouthi

| Speaker | Topic |
|----------------------|--|
| Hani Al Masri | Assessment of Reconciliation Agreements: From Cairo Agreement to Doha Declaration |
| Basem Zubeidi | Assessment of the National Election Law under the Internal Division from a Legal Perspective |
| Ammar Jamous | The State of Emergency under the Amended Basic Law of 2003 and Applications to the Palestinian Context |
| Abdul Rahman Ibrahim | Comment |
| General Discussion | |
| Break | 10:45 – 11:00 |

Session II

The Legislative Process and Problems Generated by Dichotomous Authorities

11:00 – 12:20

This session conveys a realistic picture of the Palestinian legislative process under the internal political division, elaborating on major legislative tools and mechanisms used by the West Bank government and Gaza *de facto* government. The session also highlights problems associated with dichotomous authorities, resultant legal consequences, and how to address implications on the Palestinian territory from a legal standpoint.

Session Moderator: Fawwaz Abu Zirr

Session Rapporteur: Alaa Balbisi

| Speaker | Topic |
|----------------------------------|---|
| Ahmed Al -Khaldi | The Problem and Practices of Dual Palestinian Authorities: Causes and Proposed Remedies of Negative Impacts |
| Haya Hajj Ahmed Nidhal Barham | The Legislative Process in the Palestinian Territory between 2007 and 2012 |



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| Mahmoud Alawneh | Scenarios and Remedies of the Legislative Status in the Palestinian Territory |
| Issam Abdeen | Comment |
| General Discussion | |
| Break | 12:20 – 12:30 |

Session III

Oversight of the Constitutionality of Law: Diagnosis of the Current Reality and Outlook to the Future

12:30 – 13:40

This session explores how effective the High Court is in performing tasks of the Constitutional Court, including oversight of public right and freedoms as well as control over the constitutionality of laws. The session also addresses the increasing debate and legal mobility towards forming the Constitutional Court and its prospective role. It also explores proposed scenarios of the formation and functions of the High Constitutional Court.

Session Moderator: Feras Milhem

Session Rapporteur: Ammar Jamous

| Speaker | Topic |
|--------------------|---|
| Abeer Dirbas | Oversight of the Constitutionality of Laws under the Internal Political Division and Role of the High Court in its Capacity as a Constitutional Court |
| Fateh Hamarsheh | The High Judicial Council's Vision of the Formation of the High Constitutional Court |
| Issam Abdeen | Legal Remarks on the Decree Law Amending the Law of the High Constitutional Court |
| Assem Khalil | Comment |
| General Discussion | |
| Lunch | 13:40 – 14:40 |

Session IV



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Assessment of Legislation Enacted under the Political Internal Divide: Selected Laws

14:40 – 15:40

This session examines, from a legal perspective, some regulations (decree laws promulgated in the West Bank and laws issued in the Gaza Strip) as well as relevant legal positions and effects. The panel devises respective legal remedies.

Session Moderator: Reem Al- Botmeh

Session Rapporteur: Nidhal Barham

| Speaker | Topic |
|--------------------|---|
| Alaa Hammad | Legal Assessment of the Decree Law Amending the Company Law |
| Ahmed Nassrah | Effect of the Internal Political Division on the Judicial Authority |
| Ashraf Siyam | Assessment of the Decree Law on the High Constitutional Court |
| Sama Saqf Al- Heit | Assessment of the Laws on Family Courts and Impact of the Internal Political Division on the Functions of Family Courts |
| Raed Abdul Hamid | Comment |
| General Discussion | |

Conclusive Session

15:40 – 16:20

| Speaker | Topic |
|---------------------|--|
| Session rapporteurs | Conference conclusions and recommendations |