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**Background Paper
Roundtable (6)**

**The Role of Specialized Courts and Chambers in
Economic Development¹**

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¹ The views expressed here are solely those of the author and do not necessarily represent the views of MAS.

1. Introduction

In August 2016, the Palestine Economic Policy Research Institute (MAS) convened its conference under the theme "Towards a New Vision for the Advancement of the Palestinian Economy". In discussions of the legal environment, the conference called for developing the commercial and financial legislation and setting up a specialized judicial system that can stimulate investment.² The Palestinian Authority's strategic plan 2017-2220 for the judicial sector has supported such guidelines, though it has not explicitly mentioned trade and finance specialized courts.

This paper will initiate a discussion on the importance of specialized judiciary, whether within courts that work independently of the judicial body or through specialized chambers established within existing courts. Assisted by the nascent Palestinian experience as well as models from established comparable systems, we identify the conditions that would make such an effort a success. It is necessary to provide a background review of the Palestinian judicial system before proceeding to the main body of the research.

2. Highlights of the Palestinian Judicial System

The Palestinian judicial system has passed through various stages since the creation of the Palestinian Authority (PA). The system has managed to make good strides: adopting a package of laws such as the Law of Civil and Commercial Procedures, the Law of Criminal Procedure, the Laws of Evidence, Enforcement and Arbitration and the Law of the Judiciary between 2000 and 2002. However, now after 22 years, the system still needs more effective support and interventions.

Surveys of court performance show effectiveness of the courts in terms of the number of cases received, settled and re-listed, especially after 2007. Courts have maintained high rates of cases received and fixed rates of cases settled and re-listed. Data from magistrates' courts in the West Bank between 2014 and 2016 show that the total number of civil and criminal cases in the magistrates' courts increased by 2,489 (from 49,528 cases in 2014 to 52,017 in 2016). Meanwhile, re-listed cases fell from 30765 in 2014 to 29714 in 2016,³ while the cases settled by the magistrates' courts has increased slightly– from 49,475 in 2014 to 50,861 in 2016.

Records from courts of first instance show that in 2016 the courts received 7995 cases (compared to 6842 in 2014);⁴ re-listed 13342 cases (compared to 13261 in 2014);⁵ and settled 12943 cases (up from 5549 cases in 2014); in addition to appeal cases heard by courts of first instance.

The civil cases in the courts of first instance fall under three main categories: disputes over land and property (1671); insurance (522) and commercial disputes and civil claims (1,700 cases, of which 1272 are financial claims); and labor disputes (931). These relatively significant figures require a specialized juridical system that can consider cases in three fields: real estate, commercial disputes (including insurance claims) and labor claims. However, this indicator (the number of cases) should be considered within a broader context of a host of factors that can determine the feasibility of establishing such a system, as we will see later.

The high caseload requires an increase in the number of judges in regular courts. Currently, there are only 200 judges sitting in the West Bank courts. In the 2016-2017 legal year, 64 judges sat in magistrates' courts and 73 in courts of first instance. The number of cases considered by one magistrate judge was 1239 in 2016,⁶ compared to 405 cases in courts of first instance.

² For more information on the conference recommendations, see <http://www.mas.ps/files/server/20173001133317-1.pdf>. Accessed on July 9, 2017.

³ Excluding 123,403 traffic tickets reported in 2016 in the West Bank.

⁴ Excluding 5538 appeal cases heard by the courts of first instance in 2016.

⁵ Excluding 3330 appeal cases heard by the courts of first instance in 2016.

⁶ Excluding traffic offence cases.

The number of professional judges per 100,000 population in the West Bank is 6 (2.1 in magistrates' courts and 2.5 in the courts of first instance). This is a small ratio compared to 9.8 in North African countries and 15.9 in Western Europe countries.⁷ This is definitely beyond the capacity of the judicial system, and it requires appointing more judges, especially in magistrates and first instance courts, if specialized chambers are established.

Effectiveness of courts is not only determined by the number of cases settled. More important is the ability of the system to achieve justice through transparent and expeditious judicial procedures. The Palestinian judiciary suffers structural problems that have undermined the achievement of justice. What's more, the laws— though recently adopted— are not keeping pace with global developments, which causes delays in both criminal and civil cases. The communication system is also impaired, which delays litigation. In order to build an effective judiciary system, we need to reconsider the laws governing procedures, evidence, implementation and staff expertise.

3. Theoretical framework of specialized courts

3.1 Definition

A specialized court is a first instance judicial body established by a law or based on a law. It falls within ordinary court structures, and its jurisdiction is limited to a particular type or types of cases and disputes which are often of a technical nature.⁸ A specialized court's territorial jurisdiction may be wider than that of a court of first instance. The judges are well-prepared to handle special cases in specific areas. The court may apply special procedural rules in accordance with its specialized nature.⁹

There are common rules in place to ensure the effectiveness of a specialized tribunal:¹⁰

- a. Harmonious Laws: There should be laws defining the jurisdiction, functions, procedures and powers of the court.
- B. Independence: First, there should be judicial independence, which concerns the freedom to choose members of the judiciary; control the premises, facilities and services of the court; and appoint judges on the merits, such that the judges must be free to make decisions without external interference, particularly from the executive branch of government. Second, there should be an independent location of the tribunal (e.g. locating the tribunal with a host ministry or department).¹¹
- C. Judges: competence, expertise, number, training and qualification, the chief judge and appointment procedures.¹²
- D. Litigation: The power of the specialized tribunal lies in the existence of special procedures for litigation and sometimes special rules of evidence and adjudication experience, which reduces time and effort and increases efficiency.¹³

Specialized tribunals are different from other types of courts, such as special courts established for a particular purpose, case, and persons for a specific time.¹⁴ Many countries have adopted the specialized court system to regulate many legal aspects, and for this they established commercial, administrative, family and financial crimes courts.¹⁵

⁷ International Quartet's courts project, 2015.

⁸ عبد الوهاب عيول، "المحاكم المتخصصة كوسيلة للارتقاء والعدالة: نموذج المحاكم الاتحادية المتخصصة في الامارات العربية المتحدة"، ورقة مقدمة إلى المؤتمر الرابع لرؤساء المحاكم العليا والتميز والنقض والتعقيب في الدول العربية، (قطر : سبتمبر 2013)، 7

⁹ Ibid.

¹⁰ New Zealand Ministry of Justice, "Tribunals Guidelines: choosing the right decision- making body equipping tribunals to operate effectively", (New Zealand: 2015), 15.

¹¹ Ibid, 16.

¹² Ibid, 19-22.

¹³ Ibid, 22.

¹⁴ Ibid.

¹⁵ الحاج ولد الطلبة، "المحاكم المتخصصة ودورها في اختصار الوقت وتحقيق الجودة وتيسير الإجراءات على ضوء التجربة الموريتانية"، ورقة مقدمة إلى المؤتمر الرابع لرؤساء المحاكم العليا والتميز والنقض والتعقيب في الدول العربية، (قطر : سبتمبر 2013)، 3.

In this sense, specialized tribunals are different from specialized chambers– the latter being judicial panels composed of one or more judges under the authority of a court of first instance. The territorial jurisdiction of a chamber is that of the court of first instance. One or more chambers can be established within the same court of first instance.¹⁶

When establishing a specialized chamber, specializations of the judges should be taken into consideration. This can be determined by an accredited legal certification, long-term professional experience or academic qualification (in, e.g. competition, taxation, intellectual property, etc.).¹⁷

3.2 Why specialized courts?

3.2.1 Faster procedures

Having specialized courts / chambers is important because they it reduce the time required for litigation, which helps overcome the problem of delays usually reported in regular courts and improve performance.¹⁸ Specialized courts can handle cases faster than regular courts because the latter usually have a heavy caseload.¹⁹ Yet, to enable specialized courts to make litigation easier, there should be a law regulating procedures, without which, the effort may be ineffective.²⁰

3.2.2 Building the staff capacity

The laws governing certain disputes, including trade and finance, are inherently sophisticated, and often they require intricate procedures. Dealing with such laws requires highly-skilled judges with professional expertise to ensure prompt judicial performance and sound and consistent decisions.²¹

Accumulating knowledge is one fundamental aspect of an effective specialized system, particularly in the Anglo-Saxon systems that adopt case law as a basis for adjudication. In Latin systems, court decisions may be a source of law and adjudication. In order for specialized courts to be effective, judges must possess accumulated knowledge and first-hand experience in the cases brought to the court.

Specialization has become one of the most significant terms in the 21st century. Today, there are different legal fields, with each particular branch requiring different kinds of knowledge and expertise²². Below are guidelines to be adhered to by a professional specialized judiciary:

- Judges must be allowed to possess a thorough knowledge of laws in the areas of concern, which contributes to achieving justice.
- The judges specialized in specific areas for a long time help build up accuracy in the application of the law in individual areas of specialization.
- Specialization makes judges consider cases faster and more effectively. This is one of the factors leading to the simplification of litigation procedures.
- Specialization enables judges to explain their decisions concisely and promptly, especially as the ability to explain a judgment is one of the most important criteria that control adjudication.
- Specialization in criminal cases gives judges a broader picture of and role within the framework of modern criminal law. A specialized judge transcends the abstract idea of conviction into a social concept of caring for defendants, measuring their danger and determining the appropriate

¹⁶ عبد الوهاب عبدول، "المحاكم"، 8.

Markus B. Zimmer, "Overview of Specialized Courts", *International Journal for Court Administration*, (August: 2009), 1. The author defines specialized courts as: "tribunals of narrowly focused jurisdiction to which all cases that fall within that jurisdiction are routed"

¹⁷ Ibid.

¹⁸ عبد الوهاب عبدول، "المحاكم"، 6.

¹⁹ Ibid.

²⁰ Ibid.

²¹ A consistent decision refers to the case when a court issues a ruling based on previous decisions in similar cases. The ruling issued by any court should be the same issued by other courts handling a similar case.

²² محيي محمد مسعد، "دور المحاكم الاقتصادية في الإصلاح القضائي والاقتصادي"، ورقة قدمت للمؤتمر العلمي الدولي لكلية الحقوق جامعة الاسكندرية (الاتجاهات التشريعية الحديثة في التنظيم القضائي) 683 (الاسكندرية: 2010)، 641.

treatment.²³ In economic cases, specialization furnishes the judge with integrated knowledge about investment disputes affecting the national economy.

3.2.3 Cost reduction

Restructuring of the judiciary through specialized courts contributes to increasing the effectiveness of justice in general, thus reducing costs. When measuring cost, one should consider two basic things: first, the system building costs, which can be expensive in general; and second, the operational costs; i.e. the long-term cost of litigation.²⁴ Judges handle issues in less time due to their subject matter expertise. Without specialized courts, lawyers must present detailed information to generalist judges, which can raise costs and lengthen litigation time, whereas judges in specialized courts do not usually require extensive briefing in their legal area of expertise, which can achieve long-term cost saving.

3.2.4 Justice and effectiveness encourage investment

Related literature has shown that tax incentives alone cannot stimulate investment. Other factors—such as political stability, the availability of skilled labor and the existence of an independent judiciary, free from corruption and can achieve justice in a relatively reasonable time—are more important in encouraging local and foreign investors. Of interest to the investor is the availability of specialized courts as well as laws that regulate commercial arbitration.

4. Legal framework allowing for establishing specialized courts in Palestine

The Palestinian law granted regular courts the general powers for adjudication, save for cases defined by special provisions.²⁵ Accordingly, a specialized judiciary could be built independently of regular courts, and a specialized judiciary could be established within the existing judicial system.

Specialized Courts: Legislation is required to establish a new specialized tribunal. It should provide the overarching mandate for tribunal powers and procedures and set out the tribunal's jurisdiction.²⁶ The primary law may refer some of its provisions to the law of the judiciary or other laws relating to the organization of the judiciary or the courts.²⁷

Specialized Chambers: The Palestinian Courts Law has granted the Supreme Judicial Council the authority to form specialized chambers in the magistrates' courts, the courts of first instance and the courts of appeal.²⁸ In practice, the Supreme Judicial Council exercised this authority from time to time by designating judges in the magistrates' courts to hear disputes concerning labor issues and freedom of press.²⁹

As specialized courts work within the courts of first instance or the appellate courts, they apply the procedural laws, evidence and enforcement procedures used by regular courts. As such,³⁰ a judge nominated for a specialized chamber must meet the requirements of the judges of the courts of first instance and appeal, such as having a certificate in law, having Palestinian citizenship, and being of sound and sober enough mind to make a judgment.³¹

²³ Ibid, P. 642.

²⁴ Jessica Vapnek, "Cost saving measures for the judiciary", *International Journal for Court Administration* (February: 2013), 6. "examples of specialized courts include family, environmental, probate, tax, worker's compensation, water, land administrative, juvenile, drug, and business and commercial"

²⁵ Articles 2 and 14 of the Palestinian Courts Law 2001 and the Judicial Authority of 2002 stipulate that the regular courts of Palestine shall consider all disputes and crimes except those defined by a special legal provision.

²⁶ عبد الوهاب عيدول، "المحاكم"، 10.

²⁷ New Zealand Ministry of Justice, "Tribunals Guidelines: choosing the right decision-making body equipping tribunals to operate effectively", (New Zealand: 2015), 15.

²⁸ Article 10 of the Palestinian Courts Law 15/2001 states that the Supreme Judicial Council shall regulate the work of the Magistrates' Courts and divide them into specialized chambers if necessary. A similar provision for the courts of first instance does not exist. Article 21— on the organization of appeal courts— states that the Supreme Judicial Council shall regulate the work of the appeal courts and divide them into specialized chambers; while Article 28 reads that the Supreme Judicial Council shall organize the work of the Supreme Court and divide it into specialized chambers.

²⁹ مجلس القضاء الأعلى الفلسطيني، "القضاء المتخصص ودوره بالارتقاء بالعدالة"، (2013)، 13.

³⁰ محيي محمد مسعد، "دور المحاكم"، 642.

³¹ عبد الوهاب عيدول، "المحاكم"، 13.

4. 1. Models of specialized courts in Palestine

Through careful review of the Palestinian experience, we identify three forms of specialized judiciary: judiciary independent of regular courts, judiciary operating within regular courts, and hybrid judiciary.

4.1.1 Independent judiciary

This type of judiciary, regulated by a special law, has two main features. First, it designates staff from outside the judicial system, which ensures specialization in different areas of disputes. Second, it determines court-specific procedures that are necessarily different from the dates specified in the procedural laws, such as reducing the period of challenge or appeal, etc.,³² which ensures the efficiency, effectiveness and specialization of the court. One of the most important examples of this type of judiciary is the first instance and appellate customs court.

4.1.2 Court of First Instance for Criminal Cases

The two Palestinian Courts of Customs First Instance and Appeal were established by Presidential Decree No. 2011 under the Customs and Excise Law No. 1 of 1962 in force.

Article 167 of the law provides for the establishment of a customs first instance court composed of a chief judge and two senior customs officials appointed by the Council of Ministers upon nomination by the Minister of Finance.³³ The Court of First Instance for Criminal Cases has the following functions:

- a. Handling all cases related to crimes and violations committed against the provisions of the Customs and Excise Law and other laws relating to customs as well as violations of the laws and regulations of import and export and the regulations and instructions issued under these laws and all amendments to them.
- b. Considering disputes arising from the application of customs duties and trade agreements and any dispute, of whatever kind, related to the application of the Customs and Excise Law, import and export regulations and amendments and regulations thereto.

4.1.3 Court of Customs Appeal

The Court of Customs Appeal was established by Article 170 of the Customs and Excise Law No. 1 of 1962. It consists of the chief judge, or the first member, of the Court of Appeal of Jerusalem, a senior customs officer appointed by the Council of Ministers upon nomination by the Minister of Finance, and a senior official from the Ministry of Economy appointed by the Council of Ministers upon nomination by the Minister of Economy.

The court considers the cases filed before it as it deems appropriate. The appeal may be made ten days from the date judgment was entered. The notification is made in writing if judgment is made in absentia or communicated orally in court.

4.1.4 Specialized judiciary operating within regular courts

These are specialized chambers which do not require special laws. They are established by a decision of the Supreme Judicial Council. The Supreme Judicial Council is inclined to build specialized chambers within regular courts, but the efforts are still very limited and difficult to assess. For example, in structuring the system, rather than establishing a specialized labor court³⁴ the Supreme Judicial Council had (only in 2013-2014 and 2014-2015) nominated a group of judges from the Magistrates' Court to decide on labor disputes and freedom of press.³⁵

³² The Law of the Customs Court specified different dates for the appeal, stipulating that the appeal period should be 10 days in lieu of 30 days specified by Article 205 of the Civil and Commercial Procedures Law No. 2 of 2001.

³³ The Customs and Excise Law No. 1 of 1962, Article 167.

³⁴ مجلس القضاء الأعلى الفلسطيني، "القضاء"، 13.

³⁵ See Building the Judiciary Structure 2012-2013 <http://www.courts.gov.ps/userfiles/file/%D8%A7%D9%84%D8%AA%D8%B4%D9%83%D9%8A%D9%84%D9%8A%D8%A9%20%D8%A7%D9%84%D9%82%D8%B6%D8%A7%D8%A6%D9%8A%D8%A9%2030-12-12.pdf>. Accessed on July 7, 2017.

If the PA chooses to adopt a specialized chambers system, it is important to build an effective judiciary system. The point is not to delegate powers to a group of judges for one or two years, but rather to build an effective specialized chamber capable of accumulating expertise in the subject matters.

4.1.5 Hybrid system

The Palestinian legal framework has provided for building a specialized judiciary through special laws. Such a system is, however, part of the regular courts. Examples include the Corruption Crimes Court and the Juvenile Court.

Corruption Crimes Court

This is a specialized court that considers cases of breaching public duties, money laundering, abuse of power, favoritism, unlawful acquisition of public money, graft and other crimes specified in the Anti-Corruption Law of 2005 and its amendments in Law No. 7 of 2010.³⁶

Presidential Decree No. 13 of 2014 amended the Anti-Corruption Law of 2005³⁷: The Supreme Judicial Council has, upon the request of the President of the Commission, decided to establish a court to hear cases of corruption crimes wherever they occur. The panel is headed by a chief judge in a court of first instance or a judge nominated by the Supreme Judicial Council or a delegated member of the panel of the Court of Appeal, in addition to two judges each with a position no less than a judge in the court of first instance.

The Corruption Crimes Court follows the regular criminal procedures undertaken by the regular courts in accordance with the Law of Criminal Procedure No. 3 of 2001, which has helped speed up litigation and improved its efficiency. Moreover, the Palestinian legislator did not appoint Corruption Crimes Court judges from outside the judicial system as it did with the customs court. Under the law, the judges of specialized courts should already be members in the courts of first instance.

In 2016, Corruption Crimes Court received 20 cases, a drop from 25 cases in 2014. The re-listed cases in the Court of First Instance fell slightly (from 47 cases in 2014 to 39 cases in 2016), while settled cases increased from 20 in 2014 to 23 in 2016.

Juvenile Court

The Palestinian Juvenile Court was founded in 2016 as a specialized court for the consideration of juvenile cases based on Presidential Decree No. 4 of 2016.³⁸

The Juvenile Court has its own procedures approved by the Law, Chapter III. The panel is composed of one first instance judge who considers all offenses, misdemeanors and crimes.³⁹ The court convenes only in the presence of the child protection counselor and the juvenile prosecutor.⁴⁰ Before deciding on the case, the court may discuss the decision with the child protection counselor.⁴¹

In addition, the law established a distinctive field of responsibility and character of the Court, thus making it different from regular courts and independent of the Palestinian criminal procedure law.

5. The best model for Palestine

In many Arab countries (UAE, Egypt and Mauritania, to name some), there is confusion about specialized courts and specialized chambers. Most of these countries established specialized courts,

³⁶ Law of Unlawful Acquisition of Public Money No. 1 of 2005, Issue 53 of the Palestinian National Gazette, February 28, 2005, p. 154 (in Arabic).

³⁷ Presidential Decree No. 13 of 2014 has amended the Anti-Corruption Law No. 1 of 2005, Issue 108 of the Palestinian National Gazette, July 15, 2014, p. 11 (in Arabic).

³⁸ Presidential Decree No. 4 of 2016, issue 118 of the National Gazette, February 28, 2016, p. 8 (in Arabic).

³⁹ Article 24, Para. 1.

⁴⁰ Article 24, Para. 2.

⁴¹ Article 24, Para. 3.

but made them part of regular courts and subject to the same procedures. However, other Arab countries established independent judiciary systems, but not all of them succeeded in delivering the expected outcomes. Below, we summarize the most important advantages and shortcomings of specialized judiciary systems, as well as requirements for an effective system.

5.1 Advantages of independent specialized courts

- Judges without an academic degree in law may be appointed in specialized courts although Article 16 of the Judicial Authority Law stipulates that candidates for a judge position should have obtained a university degree in law. In certain matters, it may be preferable to appoint judges with specialized professional certificates such as in economics. For example, tax and customs court judges and competition councils' judges are appointed based on their expertise. Many Western countries— such as Britain, France, Australia and New Zealand— have adopted the model of integrating judges (both from inside and outside the judiciary). The most prominent examples are labor courts, which integrated judges from legal backgrounds and representatives of employers and workers.⁴²
- The special law establishing specialized courts allows for the adoption of legal and procedural rules that facilitate litigation, streamline procedures and use new rules of evidence, which will contribute to the achievement of justice in reasonable time.

5.2 Shortcomings of independent specialized courts

- Creating independent specialized courts without carrying out feasibility studies would put a financial squeeze on the general budget. In 2014, the Palestinian Customs Court received 8 cases, and in 2016 the number jumped to 16, of which only 4 were adjudicated in the same year.
- Poor governance: Regular courts are subject to a system of governance through the law governing the judiciary. Within this system, the Supreme Judicial Council is responsible for the appointment, promotion and behavior of judges, while the Ministry of Justice is responsible for providing the financial and logistical resources that enable the population to access litigation. The creation of independent courts without taking the issue of governance into account can lead to adverse consequences.
- The failure of models in some Arab countries resulted from the application of the existing legal systems, including procedural laws, to the specialized courts, which is counterproductive in terms of effectiveness. For example, the Palestinian Corruption Crimes Court was criticized by the Anti-Corruption Commission for its slow procedures and delays in settling disputes. The procedures applied by that court are those of the general Law of Criminal Procedure.

Therefore, creating specialized chambers within the Palestinian courts may be more realistic, for two reasons:

- The Court of First Instance has judges with good experience. With special training and skill-building, they can adjudicate specialized commercial disputes.
- The establishment of specialized chambers requires only a decision from the Supreme Judicial Council, not a special law, which facilitates procedures.

Of course, success lies in the effectiveness of specialized courts rather than in the form they take. Currently, the existing specialized courts face many challenges. For example, the Customs Court does not conduct periodic feasibility studies; and the Corruption Crimes Court operates procedures based on the general Law of Criminal Procedure. After all, the goal of a specialized judiciary would be the speeding up adjudication in a professional manner, which must be taken into account when considering an effective professional judiciary.

⁴² Table 4: Labor courts in the EU – an overview, 38. available on the website: <http://www.industrial-europe.eu/committees/cp/doco/Labour%20courts%20in%20the%20EU.pdf>

5.3 Requirements for an effective specialized judiciary in Palestine

- There is judge shortage in the Court of First Instance. If a specialized judiciary is to be built, the number of judges should be increased.
- The decision to establish specialized chambers should be based on careful studies of the environment and the intended outcomes. In Morocco, commercial chambers were set up in all the courts of first instance. Over twenty years, the caseload in some chambers has been very low. In response, the state decided to keep chambers only in courts found in major cities, while appeal chambers were kept in three cities only. In Palestine, most commercial cases are reported in three cities: Ramallah, Hebron and Nablus. Therefore, setting up chambers in all eight courts of first instance may be economically inefficient. In our survey, we found that in 2016 around 47 percent of the litigants were from Ramallah, 11 percent from Nablus, 9 percent from Jenin, 5 percent from Hebron and 8 percent from Dora. Three chambers of first instance would therefore be adequate.
- Building the skills of specialized judges with knowledge of the subject matters should be taken considered before creating chambers. A continuous in-service training program should be developed for this purpose.
- Specialized courts should be subject to procedures independent of the general procedures contained in the Law of Civil and Commercial Procedure and the Law of Criminal Procedure, which ensures speed and effectiveness.
- There should be special rules in place for evidence before specialized commercial chambers, which contributes to proper and prompt litigation.
- Ensuring prior experience before the courts in general and specialized chambers in particular is essential for technical matters, including commercial disputes.

6. Summary and Recommendations

The decision to create specialized courts or specialized chambers should not be pushed by the need to tackle the current crisis within the judicial system. Rather, it should follow a strategy that leads to advancing the judiciary system. The mere establishment of specialized courts or chambers without taking into account the success factors defined in this paper may not realize the goals envisaged. We have to reiterate that creating effective specialized tribunals/chambers requires an insightful reconsideration of the existing judicial system in terms of procedures, evidence and communication, or adopting some procedural rules that ensure the cases are effectively and independently adjudicated in fair trials in reasonable time. This may be done either through the amendment of the existing judicial system or through the law governing the establishment of specialized judiciary.

Recommendations

1. The Palestinian judicial system should consider creating specialized commercial chambers.
2. Building the skills of specialized judges with knowledge of the subject matters should be taken into account before creating chambers. A continuous in-service training program should be developed for this purpose.
3. Specialized courts should be subject to procedures independent of the general procedures contained in the Law of Civil and Commercial Procedure and the Law of Criminal Procedure, which ensures speed and effectiveness.
4. There should be special rules in place for evidence before specialized commercial chambers, which contributes to proper and prompt litigation.
5. Regulating the idea of experience before the courts in general and specialized chambers in particular is very essential for technical matters, including commercial disputes.
6. Although setting up specialized commercial chambers does not require a special law, it would be more functional if such chambers are created by a law or any regulatory rules, which would help define procedures and evidence of litigation.
7. Comparative studies should be carried out to assess international models. This would help us identify strengths and weaknesses.

7. Questions for discussion

The MAS 2016 Economic Conference had recommended creating a specialized judiciary for insurance and commercial cases, and hopefully the present study will initiate a productive discussion on specialized judiciary. The following questions are raised for this Roundtable:

1. Should the field of responsibility of specialized commercial courts include insurance and financial issues? In other words, will different types of commercial cases be adjudicated by the same commercial courts? Or alternatively, will we need to create specialized courts for insurance issues?
2. Will creating specialized commercial courts need to be regulated by law?
3. If so, will these courts operate within the Ministry of Economy or the current judicial system?
4. In the event that these specialized commercial or labor courts operate outside the judicial system, will there be a possibility to appoint economists or insurance experts alongside legal staff in such courts?
5. Should it instead be considered to establish specialized commercial chambers within the existing judicial system?
6. What are the required qualifications of the judges?
7. How will creating specialized courts/chambers to consider cases of economic crimes enhance the stability of the economy?