

Cairo Declaration on Judicial Independence

Second Arab Justice Conference “Supporting and Promoting the Independence of Judiciary”

Cairo, 21-24 February 2003

The second Arab justice conference on “Supporting and Promoting the Independence of Judiciary” was held on February 21-24, 2003 in Cairo, Egypt. It was organized by the Arab Center for the Independence of the Judiciary and the Legal Profession (ACIJLP) in cooperation with the United Nations Office of the High Commissioner for Human Rights (OHCHR) and the United Nations Development Program (UNDP).

In addition to the main concept paper, other research papers were presented, during this conference, on the status of judicial independence in Arab countries including Egypt, Algeria, Tunisia, Morocco, Syria, Jordan, Lebanon, Iraq, Saudi Arabia, Yemen, and Bahrain. Also, lessons learned were presented on the judicial independence experiments in various legal systems of some countries such as France, Costa Rica, and Latin American as well as studies of some international organizations were presented such as International Foundation for Election Systems (IFES), and the International Organization of Francophone Countries.

Preamble

The participants to the conference,

Recognizing that an independent judiciary is the pivotal pillar that guarantees public freedoms, human rights, comprehensive development processes, the reform of trade and investment system and trade cooperation between Arab countries and other countries, and establishment of democratic institutions,

Affirming that the main cause of lack of judicial independence in most Arab countries is the absence of an institutional approach in particular the judicial institution,

Emphasizing that the deficit in democracy and the rule of law have played an essential role in violating the principle of judicial independence,

Acknowledging the interference of the executive powers in functions and affairs of the judicial authority including issues concerning appointing, transference, mandating, promotion, discharging, and management of judges professional affairs in most Arab countries,

Recognizing the deterioration of the legal education and the deficit in the culture related to judicial independence,

Recognizing that Arab legislations do not provide a solid base for promoting the independence of judiciary particularly by adopting exceptional laws that do not provide safeguard guarantees for the rule of law.

Therefore, we resolve to work on promoting and motivating these recommendations on both the governmental and non-governmental levels, in the following:

1. Affirming the commitment by the legislative, judicial, and executive powers of the United Nations fundamental principles on the independence of the judiciary authority adopted by the General Assembly of the United Nations in 1985. As well as taking into consideration the motivation and promotion of the Beirut Declaration of the first Arab justice conference in 1999.
2. The necessity of adopting clear strategies which were drafted by members of judicial authority in order to implement what constitutions and laws stipulated on judicial independence in the Arab countries, and the principle of separation of powers.

Such strategies shall include the following aspects:

- a. Calling for establishing specialized committees on judicial reform in each Arab country comprising representatives of the three powers and civil society in order to undertake practical steps to implement the United Nations fundamental principles on the independence of the judiciary authority, and to be committed by the international criteria regarding the judicial independence that is adopted on a wide range.
- b. Calling civil society in the Arab region for establishing an Arab network of institutions related to the status of justice and judicial independence, aim aiming at supporting and increasing efforts to adjust an information and popular climate in order to crystallize a strategy of promoting judicial independence in the Arab region.
- c. Calling for establishing a network of judicial and civil society institutions in the Arab region. Its mandates shall be analyzing the status of the independence of judiciary, and issuing periodical reports of each Arab country on developments in the field of principles that provided by national legislations in conformity with the practical implementation of these principles.
- d. Establishing a regional non-governmental organization for Arab judges in order to promote the solidarity, exchange experiences, and strengthen the independence of judiciary.

- e. Guaranteeing the financial independence for the judicial authority and including an article in the budget of the judicial financial independence in the balance sheet of the state.
 - f. Providing the public with information on the trial processes and provisions in order to achieve more transparency in the legal and judicial information and of information floating in general. Accordingly, the interaction between civil society and judicial authority.
 - g. Cooperating with the international organizations in order to support the independence of judiciary.
3. Introducing reforms to the processes of the appointment, promotion, and disciplinary of judges in order to achieve more transparency and objectiveness, and referring the judicial affair to the high judicial councils.
 4. Calling for preparing a code of conduct for judges.
 5. Strengthening the judges' freedom to establish associations of judges enabling them to express their opinion and defend their independence.
 6. Establishing specialized judicial institutions to provide training for judges.
 7. Affirming the necessity of applying the judicial provisions that represent respect for the independence of the judicial authority, and guarantees the rights of claimants.
 8. Abolishing the exceptional legislations and courts that constrain the individual freedoms and rights, their right to resort to the natural judge, and guarantees for the right to file a case.
 9. Abolishing the exceptional laws or measures that prevent challenging certain judgments, and guaranteeing the right to resort to a higher court.
 10. Simplifying the judicial procedures and shortening the period of issued provisions.
 11. Restricting the power of military courts to hear military cases only.
 12. Calling the Arab governments upon signing the two optional protocols annexed to the international covenant on political and civil rights, and the international covenant on economic, social, and cultural rights.
 13. Calling for disseminating human rights education throughout different educational levels

