CASE ANALYSIS

United States of America Ambassador Dorothy Shea vs. Faten Ali Qaisar

**Summary and Outcome**

On June 27, 2020, the Judge of Urgent Matters in Tyre District, Mohammad Mazeh (the Court/Judge), issued a decision banning the U.S Ambassador Dorothy Shea from giving statements to local media, in addition to prohibiting local media from conducting interviews with her for a year after a recent interview in which she criticized “Hezbollah”, a Shite political and military group backed by Iran, based on Articles 424 and 496 of the Civil Procedure Law.

This decision was reportedly made on the background of the Ambassador’s recent interview with Al-Arabiya Al-Hadath TV, after which a complaint was filed from a citizen who considered the Ambassador’s comments during the interview to be “insulting to the Lebanese people”, asking the Court to take the necessary measures to put an end to such statements in the future.

The Court justified its decision by insisting that the media which interviews Shea “would be contributing intentionally or unintentionally to the blatant aggression on the rights of those who feel insulted from the interview.”

**Facts**

On June 27, 2020, a Lebanese citizen, Faten Ali Qaisar filed a complaint, through e-mail, before the Judge of Urgent Matters in Tyre District, requesting the Court to take necessary measures against the U.S Ambassador to Lebanon, Dorothy Shea, after her interview on Al-Arabiya Al-hadath TV saying that the economic and political crisis that Lebanon is going through is caused by “Hezbollah”.

The Court considered that the matter was very urgent which required the issuing of the decision on a Saturday, courts usually do not open on this day, in accordance with Article 424 of the Civil Procedure Law which states:

*“Excluded from the provisions of the previous article:*

*1- Urgent cases procedures.*

*2- Procedures that the court orders to take in view of circumstances that justify haste. Chapter Seven Legal Aid”*

The Court also considered that in preparation for deciding on prospective requests and orders on petitions pursuant to the provisions of Article 496 which state:

*“Taking into account the provisions of the Law Profession Regulation, the session chairperson orders to write a report on every crime that occurs during its session and* ***what they deem to be taken during the investigation procedures****, then orders the transfer of the papers to the Public Prosecution to take the necessary action. If the crime that occurred was a felony or misdemeanor, the court may, if necessary, order the arrest of the perpetrator”*;

that “an objection may be submitted after pronouncing the decision in absentia”, the judge conducts the investigation on their own initiative and in a private manner, and makes the investigations they deem useful.

In this context, the Judge reviewed the interview of the U.S Ambassador Dorothy Shea with Al-Arabiya Al-Hadath TV dated June 26, 2020, which aired on their Facebook page, during which the Ambassador spoke of one of the Lebanese Political Parties that has representation in the Lebanese Parliament, ministerial representation in the Lebanese Government, in addition to a popular base that is not to be underestimated in Lebanon, in which she held the aforementioned party responsible for what the situation in Lebanon has reached.

Whereas the Judge also considered that the Ambassador does not have the right to address this topic because it represents an internal Lebanese affair and does not respect the recognized diplomatic norms in accordance with international treaties and the Vienna Convention.

The judge saw that the Ambassador’s speech during this interview is offensive to the feelings of many Lebanese, and contributes to provoking the Lebanese people and turning them against each other and against the aforementioned party and what it represents, in addition to creating sectarian, and political strife, and reigniting the fire to an affliction which the Lebanese and the international and regional community exerted efforts to extinguish.

The Judge also considered that despite freedom of expression being sacred and safeguarded by the Lebanese constitution and laws, it is only the case provided that it does not violate public order, public morals, and beliefs of others.

The Judge also saw that just like any Lebanese citizen is prohibited to violate public order and to insult other Lebanese Citizens, the U.S Ambassador should not be treated any different just because she is a diplomat or a foreigner, and thus should also be subject to those limits and should respect the feelings and beliefs of other the Lebanese people.

The Judge insisted that despite the fact that the U.S Ambassador has diplomatic immunity, he considered that all the treaties especially The Vienna Convention on the Law of Treaties forbids any diplomat or Ambassador, no matter which country they represent, to launch sectarian and political strife, which endangers the safety of the people, the way the U.S Ambassador did during the aforementioned interview.

The Judge also considered that the U.S Ambassador has made a clear violation of the Lebanese people’s rights protected in Paragraph 2 of Article 579 of the Civil Procedure Law which states that

*“The judge may take measures to eliminate the apparent infringement of rights or legal statuses. If the existence of the debt is not subject to serious dispute, the judge of urgent matters may grant the creditor a temporary advance at the expense of his right”*;

The Judge insisted that “the rights mentioned in this article are not limited to material and moral rights, but also includes psychological rights and feelings”.

**Decision Overview**

Judge Mohammad Mazeh issued an order in his capacity as the Judge of Urgent Matters in Tyre District, banning all media from publishing the U.S Ambassador’s comments for a year in regards to the complaint filed by a citizen claiming that she was offended by the U.S Ambassador’s interview on Al-Arabiya Al-Hadath TV. Judge Mazeh said that Ambassador Shea’s comments incited sectarian strife and threatened social peace.

The Judge, and after having reviewed the content of the interview that the U.S Ambassador was a guest in, considered that “she has violated the psychological rights and feelings of a large group of Lebanese citizens as per Paragraph 2 of Article 579 of the Civil Procedure law, by the comments she has made regarding the political party”, which he considered to represent a large number of the population, in addition to having a large legitimate representation in the parliament and government alike.

The Judge also indicated that any media channel or outlet that interviews the U.S Ambassador “would be contributing intentionally or unintentionally to the blatant aggression on the rights of those who feel insulted from the interview”.

The judge concluded that since he cannot ban the US ambassador from speaking, he can bar the media from interviewing her for a year, and that any media violating this decision will be penalized with a one-year suspension. The judge also asked the Minister of Information to disseminate this decision to all media outlets.

**Decision Direction**

The decision made bythe Judge of Urgent Matters in Tyre District, is a clear violation of Freedom of Expression, where the judge has exceeded his authority making the order unenforceable.

The Judge did not only exceed his authority in this decision, but he also took on the role of the Ministry of Information which is the official authority responsible for handling such complaints related to the media.

The Judge was clearly being subjective and decided to limit the freedom of the press when a certain political party felt threatened by the political criticism of the U.S Ambassador.

This shows that the Judge was not keen on protecting the feelings of the Lebanese citizens nor was he trying to avoid political strife, rather than trying to limit the freedom of expression when it is used to criticize the political stance of persons in the most important positions in the state, including members of parliament and ministers represented by the aforementioned political party.

This shows that the Judge was only willing to respect the freedom of others including their freedom of expression as long as their opinion agrees with the opinion of others.

The Judge went further and used the Vienna Convention to accuse the U.S Ambassador of disturbing social peace, which is troubling and is clearly a threat to democracy in Lebanon, where every time a politician is criticized, be it by a diplomat, or a citizen, they are silenced by the claim that their criticism will create political strife.

It is also important to note that the timing of the decision (June 27, 2020) comes during the country’s largest ongoing demonstrations (since October 17, 2019), where many activists have been summoned for investigation and even unlawfully arrested for criticizing politicians on social media and other media outlets.

**Global Perspective**

In his decision, the Judge referenced The Vienna Convention on the Law of Treaties and pointed out that the U.S Ambassador violated this convention on comprehensive rules, procedures, and guidelines for treaties.

However, the Judge did not specify the articles which he claims weren’t respected by the U.S Ambassador in her interview on Al-Arabiya Al-Hadath TV. It is also noticed that the free discussion of political questions was not respected by the Judge who did not consider that the exceptions to freedom of expression outweigh the protection of politicians and political parties’ reputations.

**Note**: After having issued this decision, Judge Mazeh issued a statement in which he clarified that he was not summoned by the Judicial Inspection Authority as some media outlets reported. He also reiterated his decision making it very clear that he believes that his decision was completely legal and that “his conscience is very clear having implemented the provisions of the law stipulated in his decision, therefore he decided to anticipate potential decision from the Judicial Inspection Authority to summon him and submited a request to terminate his service in the judiciary," [Al Jazeerah Net](https://www.aljazeera.net/news/politics/2020/6/28/%D9%85%D9%86%D9%8E%D8%B9-%D9%85%D8%AD%D8%A7%D9%88%D8%B1%D8%A9-%D8%A7%D9%84%D8%B3%D9%81%D9%8A%D8%B1%D8%A9-%D8%A7%D9%84%D8%A3%D9%85%D9%8A%D8%B1%D9%83%D9%8A%D8%A9-%D8%A5%D8%B1%D8%A8%D8%A7%D9%83).

The High Judicial Council, later, accepted Judge Mazeh’s request and terminated his services as a judge.

A day after Judge Mazeh issued the controversial ban on local media covering the U.S Ambassador’s statements, Lebanon’s Ministry of Foreign Affairs summoned the US Ambassador to discuss her remarks in which she criticized “Hezbollah”. On the other hand, the Minister of Information announced that "No one has the right to ban the media from covering the news" according to [Al Jazeerah Net](https://www.aljazeera.net/news/politics/2020/6/28/%D9%85%D9%86%D9%8E%D8%B9-%D9%85%D8%AD%D8%A7%D9%88%D8%B1%D8%A9-%D8%A7%D9%84%D8%B3%D9%81%D9%8A%D8%B1%D8%A9-%D8%A7%D9%84%D8%A3%D9%85%D9%8A%D8%B1%D9%83%D9%8A%D8%A9-%D8%A5%D8%B1%D8%A8%D8%A7%D9%83).

In addition, various local media expressed that they weren’t willing to abide by the decision, calling it a “non-binding and unenforceable decision which violates freedom of the press” as per one of the local media distributors, LBCI, which appealed the decision made by Judge Mazeh as reported by [Middle East Online](https://middle-east-online.com/en/us-hezbollahs-attempt-silence-lebanese-media-pathetic), no decision has been issued regarding the appeal at the date of publication of this case analysis.