

Decree Law No. 8 of 2006 Concerning the Law Amending the Law of Penal Procedure

**The Chairman of the Executive Committee of the Palestine Liberation Organisation,
The President of the Palestinian National Authority,**

Having reviewed Article 43 of the Amended Basic Law of 2003 and its Amendments,
Based upon the powers bestowed upon me, and
In accomplishment of the public interest,

I hereby promulgate the following decree law:

Article 1

This law shall be named the Law Amending the Law of the Penal Procedure of 2006. It shall be read along with the Law No. 1 of 2001, referred to hereinafter as the Original Law, as one law.

Article 2

The provisions of Article 8 of the Original Law are hereby repealed and replaced with the following provision:

Any person against whom a criminal action is instituted shall be a defendant and shall be named a suspect if he is suspected of a misdemeanour and an accused if he is charged with a crime.

Article 3

The provisions of Article 54 of the Original Law are hereby repealed and replaced with the following provision:

A criminal action may not be filed against an official or public employee or a member of the Judicial Police due to a felony or misdemeanour committed by him during or due to the performance of his function, except based upon the permission of the Attorney-General.

Article 4

The provisions of paragraph 4 of Article 120 of the Original Law are hereby repealed and replaced with the following provision:

4. Under no circumstances shall the period of detention set forth under the three paragraphs above exceed six (6) months, unless the accused was referred to the competent court for trial. If the charge imputed to him is a crime, the period of detention may not exceed six (6) months, except after the obtaining, before its expiration, of an order of the competent court to extend the period of detention for a period not to exceed forty-five (45) days that shall be renewable for another similar period or periods. Otherwise, the accused must be released in all cases.

Article 5

The provisions of Article 121 of the Original Law are hereby repealed and replaced with the following provisions:

1. A writ of detention against an accused for the first time in his absence may not be issued unless the judge is convinced, based upon medical evidence, that the accused cannot be brought before him because of illness.
2. If the court deems that the accused cannot be brought before it for security reasons, the assessment of which shall be subject to the discretion of the court, it may detain him in his absence.
3. The detention shall be extended in all cases in the absence of the accused.

Article 6

The provisions of Article 130 of the Original Law are hereby repealed and replaced with the following provisions:

1. An accused, upon which a penalty entailing capital punishment, hard labour for life, or life imprisonment is imputed or imposed, may not be released on bail.
2. With reference to the provisions of paragraph 1 of this Article, an accused on which any other criminal offence is imputed may not be released on bail unless the judge is convinced that his release does not violate the public security and the proceeding of the investigation and trial.
3. An accused may not be released on bail unless he designates an elected domicile within the circuit of jurisdiction of the court, unless his residence is located within such circuit.

Article 7

The provisions of Article 136 of the Original Law are hereby repealed.

Article 8

The provisions of Article 137 of the Original Law are hereby repealed and replaced with the following provision:

The court shall consider the requests for the release on bail in all cases by close examination.

Article 9

The provisions of paragraph 1 of Article 149 of the Original Law are hereby repealed and replaced with the following provision:

1. If, upon conclusion of the investigation, the Prosecutor deems that the deed is not punishable by law, that the action extinguished by prescription, death, general amnesty, that the accused was previously tried for the same crime, or that the accused is not criminally liable due to his minor age or because of mental illness, the Prosecutor shall send a memorandum with his opinion to the Attorney-General for disposition.

Article 10

The provisions of paragraph 5 of Article 152 of the Original Law are hereby repealed and replaced with the following provision:

5. If the Attorney-General or any of his assistants deems that the deed is not punishable by law, that the action extinguished by prescription, general amnesty, that the accused was previously tried for the same crime, that the accused is not criminally liable because of his minor age or mental illness, that there was a lack of evidence, or that the perpetrator is not known, the Attorney-General shall issue an order to that effect.

Article 11

The provisions of Article 153 of the Original Law are hereby amended by the repeal of the provision of paragraph 3 and its replacement with the following provision:

3. The decision issued by the Attorney-General for one of the reasons referred to in paragraph 5 of Article 152 of this law shall be appealed by virtue of the law and shall be examined closely. The decision of the Court of Appeal shall be final.

Article 12

The provisions of Article 274 of the Original Law are hereby repealed and replaced with the following provision:

1. The court shall decide for acquittal upon the selection of the pieces of evidence or due to their insufficiency and shall rule for non-liability if the deed does not constitute an offence or does not entail a penalty.
2. The court shall issue a judgement of conviction if the accused is proven guilty of a deed punishable by law.

Article 13

The provisions of Article 302 of the Original Law are hereby repealed and replaced with the following provision:

The sessions of the Magistrate Courts shall convene in the case of a misdemeanour punishable by imprisonment for a period exceeding one (1) year in the presence of the Prosecutor and the clerk.

Article 14

The provisions of Article 323 of the Original Law are hereby repealed and replaced with the following provisions:

The parties may appeal judgements in a criminal action that are issued or are deemed to be issued in their presence as follows:

1. A judgment issued by a Magistrate Court:
 - a) A judgment of a Magistrate Court on contraventions shall be appealed before a Court of First Instance in its appellate capacity, unless the judgment decides for a fine, whereby it shall be final taking into the consideration the challenge.
 - b) In all other offences, the judgment shall be appealed before a Court of First Instance in its appellate capacity if the penalty decided for does not exceed imprisonment for a term of three (3) months and a fine of fifty (50) Jordanian Dinars. Otherwise, the judgment shall be appealed before the Court of Appeal.
 - c) If the appellate authority is multiple due to the multiplicity of charges or convicts in one case, the competent authority shall be the Court of Appeal.
2. The following shall be appealed before the Court of Appeal:
 - a) A judgement issued by any Court of First Instance in its criminal capacity or its capacity as a Court of First Instance.
 - b) A judgement or decision of which a special provision is set forth in any other law that they may be appealed.
3. A Court of First Instance in its appellate capacity and the Court of Appeal shall review the judgements on misdemeanours issued by Magistrate Courts by close examination, unless

the court decides to conduct the trial in the form of a pleading, or if the convict thus requests and it agrees to the request, or if the Attorney-General so requests.

Article 15

The provisions of Article 427 of the Original Law are hereby repealed and replaced with the following provisions:

1. The period of prescription for capital punishment and life imprisonment shall be twenty-five (25) years.
2. The period of prescription for temporary criminal penalties shall be double the period of the sentence issued by the court, provided that it does not exceed twenty (20) years or is not less than ten (10) years.
3. The period of prescription for all other criminal penalties shall be ten (10) years.
4. The period of prescription for the penalties on misdemeanours shall be double the period of the sentence issued by the court, provided that it does not exceed ten (10) years or is not less than five (5) years.
5. The period of prescription for all other penalties on misdemeanours shall be five (5) years.

Article 16

This decree law shall be submitted to the Legislative Council for approval in the first session it holds following its promulgation.

Article 17

Every provision that contradicts the provisions of this decree law is hereby repealed.

Article 18

All competent authorities, each one within its sphere of jurisdiction, shall implement the provisions of this law, which shall enter into force as of the date of its publication in the Official Gazette.

Issued in the city of Ramallah on 15 February, 2006 AD, corresponding to 16 Muharram 1427 AH.

Mahmoud Abbas

**Chairman of the Executive Committee of the Palestine Liberation Organisation
President of the Palestinian National Authority**