

## **Law of the Formation of Regular Courts No. 5 of 2001**

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

Having reviewed the Law of Courts No. 31 of 1940 in force in the Governorates of the Gaza Strip,

Having reviewed the Law of Judicial Organisation No. 26 of 1952 in force in the Governorates of the West Bank,

Having reviewed the Law of Magistrate Courts No. 45 of 1947 in force in the Governorates of the West Bank, and

Based upon the approval of the Legislative Council during its session of 17 May, 2000,

**I hereby promulgate the following law:**

### **Part I. General Provisions**

#### **Article 1**

1. Courts of all levels shall be established pursuant to the provisions of the Judicial Authority Law and this law.
2. The scope of jurisdiction of the courts shall be determined by a decision of the Minister of Justice.

#### **Article 2**

1. The courts of Palestine shall consider and adjudicate all disputes and crimes, except those excluded by a special provision of the law. The authority of the Judiciary shall be exercised over all persons.
2. The rules of jurisdiction of the courts shall be determined by the law, and the courts shall exercise their jurisdiction pursuant to the law.

#### **Article 3**

1. Court sessions shall be open and public, unless the court decides sua sponte or upon the request of one of the litigants that proceedings shall be held in camera for reasons of morality or to maintain public order. In all cases, the pronouncement of the judgement shall be made in a public session.
2. The President of the Court shall be responsible for the organisation and orderly process of each session.

#### **Article 4**

Arabic shall be the official language used in the courts. The court shall hear the statements of non-Arabic speaking litigants or witnesses through a sworn interpreter.

#### **Article 5**

Judgements shall be issued and executed in the name of the Arab Palestinian people. Judgements shall specify the reasons upon which they are based.

#### **Article 6**

The President of the Court shall issue the decisions organising the internal administrative procedures of a court.

## **Article 7**

The courts shall be organised as follows:

1. Magistrate Courts.
2. Courts of First Instance.
3. Courts of Appeal.
4. The High Court.

## **Part II. Magistrate Courts**

### **Article 8**

Within the circuit of jurisdiction of each Court of First Instance, one or more Magistrate Courts shall be established as necessary. They shall exercise their jurisdiction pursuant to the law.

### **Article 9**

A Magistrate Court shall convene before a single judge, who shall exercise administrative control. In the event of a multiplicity of judges, this task shall be performed by the most senior judge.

### **Article 10**

The High Judicial Council shall organise the work of the Magistrate Courts and divide them into specialised circuits of jurisdiction as necessary.

### **Article 11**

The High Judicial Council shall issue a decision delegating one or more Magistrate Judges to rule on interlocutory matters; they shall be called ‘Judges of Summary Matters’ pursuant to the provisions of the Law of Civil Procedure.

## **Part III. Courts of First Instance**

### **Article 12**

Courts of First Instance shall be established at the seats of the Governorates as necessary.

### **Article 13**

The Courts of First Instance shall consist of a President and an adequate number of judges.

### **Article 14**

The Courts of First Instance shall convene before a panel of three (3) judges to be presided over by the most senior judge. A Court of First Instance shall convene before a single judge in the cases determined by the law.

### **Article 15**

When sitting in the capacity of appeal, the Courts of First Instance shall consist of three (3) judges and consider appeals filed against judgements rendered by Magistrate Courts pursuant to the law.

### **Article 16**

The Courts of First Instance may consider correctional cases lying outside of their jurisdiction by means of a decision issued by the President of the High Court upon the request of the Attorney-General.

### **Article 17**

The High Judicial Council shall issue a decision delegating a First Instance Judge to consider interlocutory or summary matters; he shall be called the 'Judge of Summary Matters' pursuant to the provisions of the Law of Civil Procedure.

## **Part IV. Courts of Appeal**

### **Article 18**

Courts of Appeal shall be established in:

1. The capital, Jerusalem.
2. Gaza.
3. Ramallah.

### **Article 19**

The Courts of Appeal shall consist of a President and an adequate number of judges.

### **Article 20**

Each session of the Courts of Appeal shall convene before three (3) judges presided over by the most senior judge to hear criminal and civil actions appealed before them.

### **Article 21**

The High Judicial Council shall organise the work of the Courts of Appeal and divide them into specialised circuits of jurisdiction.

### **Article 22**

The Courts of Appeal shall be competent to review appeals filed before them against judgements and decisions rendered by the Courts of First Instance in their capacity as courts of initial jurisdiction.

## **Part V. The High Court**

### **Article 23**

The High Court shall consist of:

1. The Court of Cassation.
2. The High Court of Justice.

### **Article 24**

1. The High Court of Justice shall consist of a President, one or more Vice-Presidents, and an adequate number of judges.
2. The permanent seat of the High Court shall be the capital, Jerusalem. It shall take a temporary seat in Gaza City and Ramallah as necessary.

### **Article 25**

The High Court of Justice shall convene with the attendance of at least two-thirds (2/3) of its members upon the request of its President or one of its circuits of jurisdiction in the following cases:

1. To reverse a legal principle previously established by the Court or to remove a contradiction between legal principles.
2. If the case brought before it revolves around a new or complex legal point or if it involves a point of particular importance.

### **Article 26**

1. A Technical Office shall be established at the High Court of Justice. It shall be headed by one of the judges of the High Court and assisted by a number of judges, retired judges, or senior lawyers appointed by the High Judicial Council for a period of two (2) years subject to renewal.
2. The Technical Office shall be provided with a sufficient number of employees.

### **Article 27**

The Technical Office shall be responsible for the following:

1. Deriving and documenting the legal principles adopted by the High Court of Justice in its judgements, classifying them, and overseeing their publication upon their submission to the President of the High Court.
2. Conducting necessary research.
3. Any other matter requested by the President of the High Court.

### **Article 28**

The High Judicial Council shall organise the work of the High Court of Justice and divide it into specialised circuits of jurisdiction.

### **Article 29**

The Court of Cassation shall convene under the presidency of the President of the High Court of Justice and four (4) judges. In the absence of the President, the Court shall be presided over by the most senior Vice-President, then by the most senior judge on the panel.

### **Article 30**

The Court of Cassation shall exercise jurisdiction over:

1. Appeals brought before it from Courts of Appeal in felony cases, civil cases, and personal status matters for non-Muslims.
2. Appeals brought before it from Courts of First Instance in their appellate capacity.
3. Matters related to changing the terms of reference of a case.
4. Any matter brought before it pursuant to the law.

### **Article 31**

The procedures of appeal before the Court of Cassation shall be determined by the law.

### **Article 32**

The High Court of Justice shall convene under the presidency of the President of the High Court and at least two (2) judges. In the absence of the President, the Court shall be presided over by the most senior Vice-President, then by the most senior judge on the panel.

### **Article 33**

The High Court of Justice shall exercise jurisdiction over:

1. Disputes related to elections.
2. Requests aiming at the cancellation of final administrative regulations, decisions and decrees concerning persons or assets of public juridical persons, including professional syndicates.
3. Appeals for the release of persons who are illegally detained.
4. Disputes related to public employees concerning appointments, promotions, pay raises, salaries, transfers, retirements, disciplinary measures, layoffs, dismissals and all matters related to personnel affairs.
5. Refusal or negligence by the administrative authority to make a decision it is required to make pursuant to the provisions of the laws or bylaws in force.
6. All administrative disputes.
7. Matters which are not court cases, but merely injunctions or summons outside of the jurisdiction of any court and which must be adjudicated in the interest of justice.
8. All matters brought before it pursuant to the law.

#### **Article 34**

Appeals and disputes brought before the High Court of Justice by the persons or authorities set forth in Article 33 must be related to one or more of the following:

1. Jurisdiction.
2. Procedural errors.
3. Violations of laws or bylaws or mistakes in their enforcement or drafting.
4. An arbitrary or abusive use of authority pursuant to a law.

### **Part VI. Concluding Provisions**

#### **Article 35**

The High Judicial Council may, from time to time and for a temporary period not to exceed six (6) months, appoint any judge of the Courts of:

1. Appeal, to sit as a judge in the Court of Cassation or any other appellate court.
2. First Instance, to sit as a judge in a Court of Appeal or any other Court of First Instance.
3. Magistrate, to sit as a judge in a Court of First Instance or in any other Magistrate Court.

#### **Article 36**

Each court shall have its own seals. Instructions shall be issued by the President of the Court to determine the type of such seals and the methods of utilising and preserving them.

#### **Article 37**

The High Court of Justice shall temporarily assume the functions assigned to the Administrative Courts and the Constitutional Court until such courts are established by the law, unless they are included under the jurisdiction of other judicial entities pursuant to the laws in force.

#### **Article 38**

The High Judicial Council shall issue the decisions necessary for the implementation of the provisions of this law by a date not later than one (1) year from the date of its enforcement.

### **Article 39**

The Law of Courts No. 31 of 1940 in force in the Governorates of the Gaza Strip, the Law of Judicial Organisation No. 26 of 1952 in force in the Governorates of the West Bank, and every provision contradicting the provisions of this law are hereby repealed.

### **Article 40**

Without prejudice to the provisions of this law, the regulations and decisions issued pursuant to the laws referred to in Article 39 shall continue to apply until the High Judicial Council repeals, amends or replaces them.

### **Article 41**

All cases now pending before the courts shall be referred to the competent court as designated by the provisions of this law, unless the case under review is reserved for final pleadings or for the rendition of the judgement.

### **Article 42**

All competent authorities, each one within its sphere of jurisdiction, shall implement the provisions of this law, which shall enter into force thirty (30) days after the date of its publication in the Official Gazette.

**Issued in the city of Gaza on 12 May, 2001 AD, corresponding to 18 Safar 1422 AH.**

**Yasser Arafat**

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