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TRAINING PLAN FOR THE LAWYER TRAINING PROGRAM AND BAR EXAMINATION

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TRAINING PLAN FOR THE LAWYER TRAINING PROGRAM AND BAR EXAMINATION

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DESCRIPTION OF THE TRAINING PLAN

INTRODUCTION

The primary purpose behind the development of the lawyers' training program and bar exam course outlines is to standardize the training of future generations of lawyers in the Palestinian Territories. Achieving this goal is critical to ensure that lawyers' attain a minimum level of legal knowledge and advocacy skills before they take on the responsibilities associated with representing clients before the courts. Additionally, the training plan has been designed to increase public confidence in the legal system by setting clear ethical standards for the practice of law and training future lawyers about their ethical obligations to society and the role they play in promoting the integrity of the legal system as a whole.

The Palestinian Bar Association (PBA), understanding its responsibility in institutionalizing lawyer training, worked in collaboration with the United States Agency for International Development (USAID) through the Supporting Rule of Law Project (Arkan). Arkan provided the PBA with the support and technical assistance it needed to establish an internal capacity to design, development, and implement its vision for bar training.

Along with the leadership of the PBA, legal professionals, and law professors put together these training materials and recommended training methodologies.

PART ONE: GOALS

This plan endeavor's to achieve a number of general goals, including:

- Standardization of the curricula and training techniques in all governorates.
- Establishment of measurable minimum levels of lawyering skills and knowledge a lawyer must attain to enable him/her to represent clients and promote greater public trust in the legal process.
- Establishment of minimum skill requirements to facilitate participants' future professional development and efficacy. In particular, the participants should acquire a base level of cognitive and collaborative aptitude allowing them to continue developing and utilizing key legal mechanisms following the training.
- Introduction of realities of the Palestinian legal system as well as the PBA's role in administering justice and the rule of law.
- Emphasis on a framework based on Palestinian laws and social values that underscores key principles including the rule of law and respect for human rights.

PART TWO: STRUCTURE AND CONTENTS

The course has been shaped based on general guidelines and rules developed by the PBA:

Trainer's:

- The central role of the trainer is facilitating discussion and effectively introducing new information that will ensure trainees acquire key practical legal skills.
- A commitment to providing trainers support and guidance as new methods and responsibilities arise.

Structure:

- The trainings cover nine subjects with four overlapping areas due to differences between laws in the West Bank and Gaza. As the curriculum progresses, it is expected that new subjects will be added.
- Each subject will be split over four, two hour sessions totaling 8 hours per topic. If there is sufficient time, subjects may be explored in greater depth. The number of hours is based upon PBA (West Bank) directions.
- The trainer will be given a packet containing syllabi, agreements, reference material and support documents to simplify and universalize the process.
- The trainer will present each subject according to the following steps:
 - Describing the main themes and lessons of the session.
 - Using certified training methods to focus on the practical and measurable development for the trainees.
 - Integrating lessons from applicable laws and scenarios as well as past precedence.

PART THREE: METHODOLOGY

The training methodology is based on the following principles:

1. Study various methods of training to identify key challenges and possible solutions best suited to the needs and level of trainees.
2. Develop a unique program addressing needs in the West Bank and Gaza based on the knowledge, experience and resources of course drafters.
3. Monitor the implementation process by crafting an evaluation scheme allowing periodic review of the curriculum and success of course objectives.
4. Facilitate discussion with trainees following training sessions to gauge the program's effectiveness.

PART FOUR: CERTIFIED TRAINING METHODS

The Course Outline will utilize a variety of training and educational methods to avoid reliance on specific methods or biases. In particular, the program will replace traditional and theoretical approaches, proven inappropriate and outdated, with processes such as:

- Discussion
- Brainstorming
- Question and answer sessions
- Case studies
- Role playing and/or moot courts
- Work groups
- Legal research assignments

Additionally, the Course Outline will introduce practical applications by looking at past precedence as topics for discussion. Such discourse will allow trainees to share their thoughts and points of view while working towards the correct interpretation.

Such tactics will be supported with the use of resources such as:

- LCD or overhead projectors
- Colored diagrams
- Videos
- Charts
- Electronic resources

Arkan has presented the above tactics in a manual for professors of law in the Palestinian territories titled “Interactive Teaching and Learning Manual for Teachers.”

PART FIVE: ATTAINING RESEARCH AND INFORMATION

To provide trainees with additional resources that will significantly enhance their research capabilities beyond the course via the internet and other useful resources, the Arkan project has prepared a manual on legal research which covers:

- Advice and tips to shorten research time
- Main steps to conduct legal research
- Legal language and legal research
- Honest and effective methods of using the World Wide Web (the Internet)
- The employment of primary and secondary legal resources
- An overview of legal citations
- Main principles of drafting legal documents and memoranda
- Plagiarism

PART SIX: PREPARING FOR THE BAR EXAMINATION

This section will introduce the examination’s format as well the practical and methodological concepts, contained within it. Following said introduction, trainees will be prepared to physically and mentally approach the exam.

PART SEVEN: THE SUMMARY AND RESULTS OF THE TRAINING PROCESS

The results outlined for the Course Outlines are measured through the following deliverables:

1. Subject Comprehension: Provide the trainee with an understanding that the Palestinian political system is influenced by various political factors that may make ineffective academic and theoretical decisions.
2. Analytical and Cognitive Skills: Provide the trainee with the necessary legal and theoretical skills to make complex decisions that take into account various factors.

3. Professional Skills: Provide the trainee with the assets to develop professionally and intellectually.

PART EIGHT: EVALUATION

Participation, personality strength, analytical skills, follow-up and research will be taken into consideration.

PART NINE: GENERAL GUIDELINES AND TIPS FOR THE TRAINER

1. Understanding of the goals and outcomes of the course.
2. Knowledge of course contents, organization and methods of instruction.
3. Remaining engaged with trainees through discussion and outside contact.
4. Supporting the trainees, developing their knowledge base and furthering their skills.
5. Preparing and distributing course outlines before the start of training which lay out expected lessons and accomplishments of trainings.
6. Staying in touch with the needs and limitations of trainees to ensure the curriculum is well suited.
7. Abiding by allotted time.
8. Language of the plan: Arabic.
9. Aiming to supply the trainees with the necessary knowledge and skills needed through a dynamic and positive process.

PART TEN: SESSION MANAGEMENT

To provide a positive and effective learning environment, the trainer will serve as a facilitator rather than a traditional “lecturer” steeped in theoretical methods.

Based on this, the trainer will take the following into consideration:

- Guiding the discussion between the trainees and encouraging communication.
- Developing listening and comprehension skills of the trainees.
- Encouraging the trainees to ask questions amongst themselves in addition to asking questions to the trainer.
- Using direct and indirect questions.
- Respecting diverse opinions and ideas.
- Managing time effectively.
- Presenting the subject in an enthusiastic manner.
- Comparing hypothetical solutions with actual or constructed case studies.
- Encouraging constructive dialogue.
- Respecting trainees and their various skills levels in an accepting and confidence-building environment.
- Identifying specific problems and possible research methods with the group in order to come to a consensus about the solutions.

COURSE OUTLINE NUMBER ONE

BASIC LAW

PART ONE: GENERAL AND SPECIFIC GOALS

This plan aims to achieve the following general goals:

- Instilling the rule of law (ROL) and value of human rights in trainees.
- Raising the level of the trainees' knowledge and skills through a training curriculum sensitive to the particular traits of each group of trainees.
- Promoting the personal and professional development of trainees by using strategies that enable the trainee to attain various cognitive skills, collaborative skills and team-working skills.

This outline also aims to achieve the following specific goals:

- Introducing the realities of constitutional rights in basic law.
- Clarifying the role and extent of the constitution and basic law in supporting Palestinian rule of law and other procedures.
- Developing the ability to constructively use constitutional rules and the basic law to resolve disagreement between authorities.

PART TWO: DISTRIBUTION OF THE UNITS OF THE COURSE OUTLINE

Meeting One:

- Introduction to the supremacy of the constitution and basic law followed by discussion and practical examples.
- Palestinian constitutional sources with practical examples of each.
- Methods of interpreting the constitution and studying the process of basic law formation in the West Bank and Gaza and whether the method is democratic or not.
- Discussion.

Meeting Two:

- Methods to solve constitutional crises and discussion on the degree to which laws contradict the constitution and the various penalties possible in these cases. The trainer must clarify to the trainees the means and ways of appealing to the constitutional courts.
- Roles of the President and Prime Minister, with a discussion on the weaknesses and strengths of each actor as well as their points of disagreement.
- The degree of respect for the rule of law in the Palestinian Territories.
- Discussion.

Meeting Three:

- Legislative and presidential elections.
- The Palestinian Legislative Council and methods of drafting, debating, voting on, verifying and publishing/promulgating law.
- The role of the courts in the Palestinian political system as well as executive-judicial relations.
- The role of the constitutional court in the political system (case study.)

Meeting Four:

- Emergency law and contingencies as provided in the basic Palestinian law and a focus on maintaining the boundaries between rights and freedoms.
- Rights and freedoms in basic Palestinian law and the degree to which they are implemented according to international standards.
- Reference to international documents and a discussion on the shortcomings of basic Palestinian law and/or lack of conformity with international law.
- Discussion and study of the issues raised by Palestinian legislative council rulings.

PART THREE: METHODOLOGY

The curriculum should encompass the following:

A. The following basic sections:

- Introduction to the supremacy of the constitution and basic law followed by discussion and practical examples.
- Palestinian constitutional sources with practical examples of each.
- Methods of interpreting the constitution and studying the process of basic law formation in Palestine and whether the method is democratic or not.
- Methods to solve constitutional crises and discussion of the degree to which laws contradict the constitution and the various penalties possible in these cases. The trainer must clarify to the trainees the means and ways of appealing to the constitutional courts.
- Roles of the president and prime minister, with a discussion of the weaknesses and strengths of each actor as well as their points of disagreement.
- The degree of respect for the rule of law in Palestine.

B. Secondary Sections:

- Legislative and presidential elections.
- The Palestinian Legislative Council and methods of drafting, debating, voting on, verifying and publishing law.
- The role of the courts in the Palestinian political system and executive-judicial relations.

- Emergency law and contingencies as provided in the basic Palestinian law and a focus on maintaining the boundaries between rights and freedoms.
- Rights and freedoms in basic Palestinian law and the degree to which they are implemented according to international standards.
- Reference to international documents and a discussion of the shortcomings of basic Palestinian law and/or lack of conformity with international law.

PART FOUR: REFERENCES TO THE PALESTINIAN BASIC LAW

1. Draft Palestinian Constitution, with the laws on the following sites: www.pogar.org and <http://usinfo.state.gov/ar> .
2. Ibrahim Sheeha, Political Systems and the Constitutional Law, Al-Dar Al-Game'ya, Beirut, 1995.
3. D. Zoheir Shokr, The Constitutional Law Reference, Part One, University Association for Studies and Publications, Beirut, Second Edition, 1992.
4. Maurice Doufrijeyeh, Political Associations and the Constitutional Law, University Association for Studies, Publications and Distribution, Beirut, Second Edition, 1992.
5. Andrea Horeo, Constitutional Law and Political Associations, Part One, Al-Ahleya for Publications and Distribution, Beirut, 1977.
6. Ismat Abdallah El-Sheikh, The Constitution Between the Necessity of Stability and the Waves of Change, First Edition, Cairo, Dar El-Nahda, 2004.
7. Mohamed Foad Abdel Basset, the Mandate of the Higher Constitutional Court pertaining to the Constitutional Issues, Dar El Game'a, Egypt, First Edition, 2002.
8. Counselor Ez El-Din Al-Danasoory and Dr. Abdel Hamid El-Shawarby, The Constitutional Lawsuit, First Edition, Dar El Fikr El Arabi, Cairo, 2002.
9. Ahmed Fathy Soroor, Constitutional Protection of Rights and Freedoms, Second Edition, Dar El Shorook, Cairo, 2000.
10. Ahmed Fathy Soroor, Methods of Constitutional Reform, Legal Library, First Edition, 2006.
11. Dr. Salah El Din Fawzy, Political Systems and the Constitutional Law, Dar El Nahda El Arabeya, Cairo, 2000.

COURSE OUTLINE NUMBER TWO INDEPENDENCE OF THE JUDICIARY

INTRODUCTION

The viability and independence of the judiciary represent the foundation for law-abiding nations to ensure individual and group rights. This goal may not be realized without safeguarding the autonomy and competence of all its members (who enforce the law). Simply, an effective judiciary provides tranquility, safety and security while ensuring freedoms through the spread of democracy. Furthermore, it opens the door to the investment in and development of society through trust in the legal and judicial systems.

PART ONE: GENERAL AND SPECIFIC GOALS

This Course Outline aims to achieve the following general goals:

- Instilling the rule of law (ROL) and value of human rights in trainees.
- Raising the level of the trainees' knowledge and skills through a training curriculum sensitive to the particular traits of each group of trainees.
- Promoting the personal and professional development of trainees by using strategies that enable the trainee to attain various cognitive skills, collaborative skills and team-working skills.

This outline also aims to achieve the following specific goals:

- Introducing the realities of constitutional rights in basic law.
- Clarifying the role and extent of the constitution and basic law in supporting Palestinian rule of law and other procedures.
- Developing the ability to constructively use constitutional rules and the basic law to resolve disagreement between authorities.

PART TWO: DISTRIBUTION OF THE UNITS OF THE COURSE OUTLINE

Meeting One:

- The concept of judicial independence ensured by the separation of powers.
- The degree to which the executive influences the Palestinian judiciary and its autonomy.
- The importance of independence of the judiciary for the protection of rights and freedoms.
- Practical case study.
- Questions for discussion.

Meeting Two:

- Legislative interference in judiciary.
- Problems faced when working in the judicial system.
- The slow litigation process.
- Past and present reform initiatives for the judiciary.

Meeting Three:

- Judicial inspections and their importance to development and advancement of the Palestinian judiciary.
- Centrality of judicial ethics and a code of conduct.
- The correlations between professionalism and judicial freedom.
- Discussion of particular lawsuits that underline the importance of inspections and the professional ethics of the judiciary.

Meeting Four:

- The Supreme Judicial Council (SJC).
- The influence of the SJC on the strengthening of judicial independence.
- The level of trust and respect in the judiciary.
- The ability of the public to access legal and judicial information and receive fair legal treatment.
- The ability of judges to access legal and judicial information and its influence on the independence of the judiciary.
- Alternative mechanisms for dispute resolution (ADR).

PART THREE: REFERENCES

1. The Palestinian Basic Law for the year 2002 and its modifications.
2. The Draft Palestinian Constitution, third draft, 2003.
3. Supreme Constitutional Court Law Number 3, for the year 2006.
4. Court Formation Law Number 5 for the year 2001.
5. Law Number 2 for the year 2005 modifying a number of articles pertaining to the formation of administrative courts number 5 for the year 2001.
6. Farouk Al-Kilani, The Independence of the Judiciary, Al-Araby Publishing Center, Dar el Mo'alef for Publication, Production and Distribution, Beirut, 1999.
7. Dr. Yosry Mohamed Al-Assar, Objections in Constitutional Courts, Legal Library, Second Draft, 2004.
8. The Justice System in the Arab World, The International Institute for Higher Studies, Dar Al-Ilm Lil Malayeen, Beirut, Lebanon, 1995.
9. In Pursuit of Spreading Democracy, A Guide to Sustaining the Independence of the Judiciary and its Impartiality, United Nations Development Program, International Institution for Organizing Elections, 2003.

10. Discussions in Legal and Judicial Reform, Office of the Vice President for Legal Affairs, World Bank, World Bank, 2004.
11. Ismat Abdallah Al-Sheikh, The Constitution Between the Requirements for Sustainability and the Necessities for Change, First Edition, Cairo, Dar El-Nahda, 2004.

COURSE OUTLINE NUMBER THREE FORMATION OF REGULAT COURTS LAW

PART ONE: GENERAL AND SPECIFIC GOALS

This Course Outline aims to achieve the following general goals:

- Instilling the rule of law (ROL) and value of human rights in trainees.
- Raising the level of the trainees' knowledge and skills through a training curriculum sensitive to the particular traits of each group of trainees.
- Promoting the personal and professional development of trainees by using strategies that enable the trainee to attain various cognitive skills, collaborative skills and team-working skills.

This outline also aims to achieve the following specific goals:

- Introducing the realities of constitutional rights in basic law.
- Clarifying the role and extent of the constitution and basic law in supporting Palestinian rule of law and other procedures.
- Developing the ability to constructively use constitutional rules and the basic law to resolve disagreement between authorities.

PART TWO: DISTRIBUTION OF THE UNITS OF THE COURSE OUTLINE

Meeting One:

- Structure of the court system and the responsibilities of specific departments.
- The general mandate of the regular courts.
- The trial process.
- Relationship between the regular courts and conciliation courts (courts of peace).
- Discussion and preparation for a small research project on the conciliation courts.

Meeting Two:

- Establishment and formation of first instance and appeals courts.
- The panels of the first instance court and appeal court.
- The mandate of the first instance court as an appeals court, and assigning judges to alternative duties.
- The mandate of the appeals court.
- Issuance of administrative decisions in the courts.
- Set-up of a moot court and role playing.

Meeting Three: Presentation of the following subjects:

- Formation of the Supreme Court
- The structure of the Supreme Court, and its departments.
- The mandate of the Supreme Courts as a court of Cassations and the High Court of Justice (Administrative.)
- Procedures and objections before the Supreme Court in both mandates (Cassation or Administrative.)
- The technical office and its mandate.
- Discussion and case study.

Meeting Four: The constitutional court

- Formation of the constitutional courts.
- Mandate and procedures.
- Judgment and decisions.
- Practical difficulties faced by the constitutional court.
- The constitutional court and the Palestinian political system.
- Practical cases..

PART THREE: REFERENCES

- Palestinian Basic Law for the year 2002 and its modifications.
- Draft Palestinian Constitutional Law, Third Draft, 2003.
- Law for the Formation of Courts number 5 for the year 2001.
- Law for the Fees of Regular Courts number 1 for the year 2003.
- Law number 2 for the year 2005 to modify a number of clauses of the law for the formation of Regular Courts number 5 for the year 2001.
- Dr. Hisham Abdel Monem Okasha, Higher Constitutional Court, Legal Library, Arab Lawyers Network, First Edition, 2005.
- Ahmed Al-Mowafi, On Modifying the Laws of the Higher Constitutional Courts, First Edition, Legal Library, Lawyers Network, 2005.
- Mohamed Foad Abdel Basset, The Mandate of the Higher Constitutional Courts in Constitutional Matters, First Edition, Dar El Game'a, Egypt, 2002.
- Counselor Ez El-Din Al-Danasoory and Dr. Abdel Hamid El-Shawarby, The Constitutional Cases, First Edition, Dar El Fikr El Arabi, Cairo, 2002.
- Mohsen Mohamed Abdel Hamid El Aboody, General Constitutional Principles and the Development of Constitutional Systems in Egypt, Dar El Nahda El Arabeya, Cairo, 2005.
- Mohamed Anas Kassem Gaafar, Censorship of the Constitutionality of Laws: A Practical, Comparative Study, Second Edition, Legal Library, Arab Lawyers Network, 1999.
- Mohamed Al-Senary, Principles of the Mandate of the Constitutional Courts Interpreter Legislative Texts, First Edition, Legal Library, Arab Lawyers Network.

- Site for the Arab Decision, as seen on May 22, 2007.
http://www.arabdecision.org/show_func_5_3_4_1_3_2366.html

PART FOUR: SELECTED COURT DECISIONS

1. Ruling of the Constitutional court number 1 for the year 2006 regarding the constitutionality of the decisions of the Legislative Council in the Session of March 6, 2006: <http://muqtafi.birzeit.edu/data/other/hicourt07.pdf> .
2. Ruling of the First Instance Court of Amman regarding the nomination of the representative Noaman Al-Faisal:
<http://www.assabeel.info/inside/article.asp?version=492&newsid+3318§ion=77&1A=P3> as seen on May 29, 2007

COURSE OUTLINE NUMBER FOUR THE LAW REGULATING THE LEGAL PROFESSION

PART ONE: GENERAL GOALS

This Course Outline aims to achieve the following general goals:

- Defending the interests of the Palestinian Bar Association (PBA), protecting the PBA and legal profession's mission, and safeguarding lawyers' interests.
- Supporting rule of law and encouraging respect for human rights.
- Organizing PBA efforts for the development of legal theories in the service of justice and fairness.
- Providing assistance to develop legislation guaranteeing justice without financial or administrative obstacles.
- Promoting legal research and encouraging researchers to develop educational resources for PBA members.

PART TWO: DISTRIBUTION OF THE UNITS OF THE COURSE OUTLINE

Meeting One:

- A brief history of Palestinian lawyers' unions.
- A brief comparison of the Palestinian legal profession with that of other countries.
- Independence of the legal profession.
- Questions and discussion.

Meeting Two:

- Requirements for the independence of the legal profession.
- The Law Regulating the Legal Profession.
- The PBA's role in protecting rights and liberties.
- Does the Law protect the lawyer and the legal profession?

Meeting Three:

- Discussion on Bar Exam and Training Regulations number 1 for the year 2004.
- The degree to which the legal system addresses the needs of lawyers and trainees.
- Practical case study for discussion.

Meeting Four:

- Legal Ethics.
- Obstacles to the independence of the legal profession.
- Case study for discussion.

PART THREE: REFERENCES

1. The Basic Palestinian Law of 2002 and its amendments.
2. Law number 3 for the year 1999 regarding to the Regulation of the Legal Profession.
3. Law number 5 for the year 1999 regarding the modification of law number 3 of 1999.
4. The Internal Regulations of the PBA published in accordance to articles 42-4-A of law number 3 for the year 1999, and articles “3” of law number 5 of the year 1999.
5. Yossri Mohamed El Assar, The Concept of Emergency Situations in Constitutional Law and the executive powers legislative actions in the absence of civil society, The Lawyer’s Magazine, Cairo, 20th year, July, August, September 1996.
6. Ahmed Fathy Soroor, Methods of Constitutional Reform, First Edition, Legal Library, Arab Lawyers Network, 2006.
7. Ahmed Abdel Wahab Abu Wards, The Right to a Trial: Respecting v.s. Breaching, First Edition, Legal Library, Arab Lawyers Network, The Arab Legal, 2005.
8. Legal opinion from Dr. Hamza Ahmed Haddad, Abandoning Lawyer Training, from the Center of Law and Arbitration. <http://www.lac.com.jo/articles18.htm> as seen on May 29, 2007.

COURSE OUTLINE NUMBER FIVE EVIDENCE LAW IN COMMERCIAL LAW AND CIVIL ACTIONS

PART ONE: GENERAL AND SPECIFIC GOALS

This Course Outline aims to achieve the following general goals:

- Introduction to the strategies used to prove law cases before Palestinian courts according to the Evidence Law in Commercial and Civil Actions number 4 for the year 2001.
- Increasing the professional capacity of legal trainees.
- Exposing trainees to the practical skills that they acquired during the theoretical portion of their study.

Specifically, this outline aims to achieve the following:

- Outlining written evidence: its types, strengths, and the methods used to object to such evidence.
- Using witness testimonies according to the law.
- Study of legal evidence such as presumptions of law, admissions, oaths, and field inspections.
- Researching modern forms of evidence such as electronic mail, facsimiles, telex, telephones and microfiche.
- Understanding the practical issues pertaining to Evidence law in Commercial and Civil Actions; the first stages of litigation and the appeal stages of litigation.
- General definition of jurisprudence and Palestinian definition of jurisprudence related to the articles of Evidence Law in Commercial and Civil Actions. The lecturer will present the lawyers and trainees with specific references that they see as viable, flexible methods either as precedents or legal references.
- Method of presenting each type of evidence before the Palestinian courts according to the Evidence Law in Commercial and Civil Actions.
- Research cases and past examples of trials and rulings in this area.

PART TWO: DISTRIBUTION OF THE UNITS OF THE COURSE OUTLINE

Meeting One:

- The evidence: its importance, and the authority of the judge vis a vis the evidence, the principle of impartiality of the judge, the burden of proof, and the object of proof.
- Methods of proof: written evidence and official instruments, customary documents, unsigned statements, authentication of evidence, and allegations of forgery, which take place during the original case and indicate the nature of the forgery.

Meeting Two:

- Definition of testimony, strength of evidence, and cases where proof through testimony is admissible.
- Requirements for qualifying as a witness.
- Cases where testimonials and proceedings for testimonials are prohibited.

Meeting Three:

- Presumptions, proof and cross examination of the legal presumptions; juridical presumptions, elements and sources, and the difference between juridical presumptions and legal presumptions.
- The principle of proof of the matter and its relation to Public Order, its relevance to individuals, the subject matter, and cause.
- Declarations: definition of declaration and the conditions and effects of juridical declaration. Definition of non-juridical declaration, its strength as proof in multiple forms (simple, descriptive and complex.)
- Examination of the other litigant: examination, procedures, and results.

Meeting Four:

- The decisive oath: definition of the decisive oath, its conditions and consequences; other evidence: to whom it was addressed and when it was addressed and the subject matter.
- The suppletory oath: definition of the suppletory oath, its conditions and its rulings, the consequences of addressing a suppletory oath and the differences between a decisive oath and a suppletory oath.
- Inspection: definition of inspection, its conditions and procedures when proving a case.
- Expertise: the specifics, the evaluative authority of the court in nominating an expert, supplying an expert, the procedures governing the expert's work, the report submitted by the expert and the conditions that need to be met.
- Modern methods of proof.

PART THREE: REFERENCES

Section One: Juristic References:

1. Mousa Abu Molawah, Explanation Evidence Law in Commercial and Civil Actions, Number 4 for the year 2001, First Edition, Gaza, 2003.
2. Nazem Owaida, Explanation Evidence Law in Commercial and Civil Actions, Number 4 for the year 2001.
3. Faris Al-Khoury, Civil Procedural Law: Theoretical and Practical Lessons, Dar Al-Arabiya for Publication and Distribution, Oman, 1987.
4. Mufleh Al Qudah: Evidence Law in Commercial and Civil Actions, Al-Thakafa Publishing House, Second Edition, (Comparative Study), 1994.

5. Abbas Al-Aboody, *Explaining the Evidence Law*, Al-Thakafa Publishing and Distribution House, 2005.
6. Ahmed Farag Hussein, *Evidence in Islamic Jurisprudence*, Al-Jame'a Al-Jadeeda Publishing House, Alexandria, 2004.
7. Mohamed Hussein Kassem, *Origins of Proof and Civil and Commercial Matters*, Beirut, Lebanon, Halaby Legal Publications, 2003.
8. Tawfiq Ahmed Abdel Rahman, *Testimony as Evidence, A Study in Light of the Rulings of Jordanian Law and the efforts of the Court of Cassation "A Comparative Study"*, Arabic Magazine for Human Sciences, Digest 11, Volume 2, Pages 13-72.
9. Mohamed Ihsan Abulkheir, *Illegal Evidence Against Written Evidence; Unless it is the same type, even if the two parties have Literary Obstacle*, Al-Mohamoun, Digest 67, Volume 7, 2002, pages 644-645.
10. Ali Al-Hadeedy, *Expertise in Civil and Commercial Matter, Analytical Study Comparing Expertise in the Civil and Commercial Matters in the Egyptian and French Procedural Law*, Dar El Nahda El-Arabeya, 1993.
11. Mostafa Magdy Harga, *The Decisive Oath in Light of Jurisprudential Opinions and the Court Decision. Encompassing the General Rules of Civil Proof, the Rulings of and Rules of the Decisive Oath and its Effects. The Authority of the Court in Directing or Negating it, in Addition to the Decisions and Rules of the Suppletory Oath and the Rectification Oath*, Cairo, Dar Mahmoud, 1995.
12. Abbas Al-Aboody, *Ordinary Instruments and their Role in Civil Proof: Comparative Study in Arab and Foreign Legislation, Rulings of the Court*, Amman, Al-Dar Al-Ilmeya Al-Dawlia, 2001.
13. Mohamed Bin Abdel Wahab Haj, Student, *The Role of Customary Written Evidence (Ordinary Instruments) Previously Prepared in Civil Proof*, Doctoral Dissertation, Ain Shams University, 1999.

Section Two: Court Rulings:

A. Rulings of the Court of Cassation/West Bank:

- Number 39/2005 of the Supreme Court as a Court of Cassations temporarily convened in Ramallah, 4/25/2005.
- Number 21/2003 of the Supreme Court as a Court of Cassations temporarily convened in Ramallah, 9/29/2005.
- Number 14/2004 of the Supreme Court as a Court of Cassations temporarily convened in Ramallah, 4/19/2004.
- Number 4/3003 of the Supreme Court as a Court of Cassations temporarily convened in Ramallah, 5/25/2003.
- Number 122/2005 of the Supreme Court as a Court of Cassations temporarily convened in Ramallah, 95/3/2006.
- Number 125/2005 of the Supreme Court as a Court of Cassations temporarily convened in Ramallah, 3/12/2006.

B. Rulings of the Court of Cassation/Gaza:

- Objection number 242/2003 of the Supreme Court as a Court of Cassation, 5/25/2004.

- Number 181/2003 of the Supreme Court in Gaza on 11/9/2003 “Discretionary Authority in Appraising the Value of Evidence and Statements.”
- Number 167/2003 of the Supreme Court in Gaza on 10/28/2003 “What May Be Proven by Verbal Evidence.”
- Number 161/2003 of the Supreme Court in Gaza on 10/16/2004 “Modification of the Official Statement with a Customary Statement.”
- Number 125/2003 of the Supreme Court in Gaza on 3/19/2003 “Conclusiveness of Statement Signed by the Person.”
- Number 122/2003 of the Supreme Court in Gaza on 7/13/2003 “Implementation of Clause (2) of the Evidence Law in Commercial and Civil Actions.”
- Number 108/2003 of the Supreme Court in Gaza on 9/23/2003 “Conclusiveness of Official Documentation to all, Clause (11) of the Evidence Law in Commercial and Civil Actions.”
- Number 222/2003 of the Supreme Court in Gaza on 12/21/2003 “Conclusiveness of the Customary Statement.”
- Number 393/2003 of the Supreme Court in Gaza on 4/13/2004 “Proof by Testimony in Commercial Dealings.”
- Number 8/2003 of the Supreme Court in Gaza on 4/26/2003 “The Right of a Brother to Prove His Rights Through Testimony and Witnesses.”
- Number 48/2004 of the Supreme Court in Gaza on 5/24/2004 (The Statement and its Acceptance.)
- Number 125/2003 of the Supreme Court in Gaza on 3/19/2003, Statement of Clause 79 from the magazine.
- Number 254/2003 of the Supreme Court in Gaza on 12/19/2004 “A Person is Held to His Statement and within his boundaries.”
- Number 165/2003 of the Supreme Court in Gaza, hearing on 7/8/2004 (The expert.)

COURSE OUTLINE NUMBER SIX CIVIL AND COMMERCIAL PROCEDURES LAW

PART ONE: GENERAL AND SPECIFIC GOALS

This outline aims to educate the trainees on the Civil and Commercial Procedures Law number (2) of the year 2001. This law is considered to be one of the most important laws as it regulates the process of filing and proceeding with a lawsuit, pursuing cassations, appealing rulings and cassations of appeals. Accordingly, this outline will ensure the following:

- Working in accordance with the judicial system.
- The principle of the independence of the judiciary.
- The principle of resorting to the judiciary in two stages.
- The principle of freedom of the judiciary.
- The principle of the right to defense.
- The principle of open courts.
- The principle of strengthening court arguments.

The outline aims to achieve the following specific goals:

- Detailing the responsibilities of the Palestinian courts, the everyday complications which might arise and the methods of finding solutions according to the law.
- Training on the procedures of filing a lawsuit, motions, exceptions, expedited requisitions and abbreviated process lawsuits.
- Review of the lawsuit process from start to finish.
- Clarification of the necessary procedures and conditions to pronounce judgments.
- Explanation of the methods to object to court decisions.

PART TWO: DISTRIBUTION OF THE UNITS OF THE COURSE OUTLINE

Meeting One:

- Court jurisdiction and international jurisdiction.
- Rules regarding jurisdictional value: examples of property lawsuits based on the value of the property as the subject of the lawsuit, civil cases, and all lawsuits of appraised value, cross action, and motions related to the original lawsuit.
- The rules of evaluating the value of a lawsuit.
- The rules of specific jurisdiction; the jurisdiction of the court of conciliation according to specific jurisdiction. Examples of lawsuits.
- Territorial jurisdiction: examples.
- Appointment of an authority during conflicts on jurisdiction.

Meeting Two:

- Filing a lawsuit, registering a lawsuit, notifications and the regulations of responses, the presence and absence of the opponent, merging of lawsuits due to similarities in reason and subject.
- Requests and defense:
 - The opponent must submit their planned defense prior to entering the litigation process.
 - Motion of non-jurisdiction – motion to move the lawsuit to a different court – motion to annul the procedures, motion to add additional parties to the lawsuit, or a request by a third party to enter into the litigation.
- Expedited requests.
- Abbreviated process lawsuits.
- Situations where abbreviated process lawsuits may be utilized:
 - The process of abbreviated process lawsuits.
 - Preventive attachments.
- Appointment of a guardian of the monetary funds and prohibition from travel.
- Deposit of the monetary funds into the court treasury.

Meeting Three:

- Progress of the lawsuit, regulation and administration of the trial, the appropriate authority of the chief judge of the court in regulating the trial, recording of the trial proceedings and the authority of the court in defining the dates of trials and constituencies.
- Interrupting the litigation, suspending the lawsuit proceedings, cessation of lawsuit proceedings and the consequences to these actions.
- Impediments to the Litigation process: procedures for and consequences to requesting the suspension of the litigation, abandoning litigation, and who has the right to halt litigation.
- Recusation of judges and their responses:
 - Recusation of the judge and relevant cases studies.
 - Proceedings to request a recusation of the judge.

Meeting Four:

- Judgments, the authority of the court and the procedures for issuing judgments, the evidence and justification that the decision must encompass, proceedings for correcting judgments and justifications.
- Methods of appeals in judgments, cases of non-appeals in preliminary decisions and the exceptions to these cases.
- Methods of appeals, appellate decisions, cassations and objections.
- Re-trials:
 - Cases where objections may take place by way of re-trial.
 - Proceedings of objections by way of re-trial.

PART THREE: REFERENCES

Section One: Books:

- Othman Al-Takroui, Brief Description of the Civil and Commercial Procedures Law number (3), 2001, Jerusalem, Al-Quds University, 2002.
- Mostafa Ayyad and Nazem Owaida, Expedited Litigation and its Importance in the West Bank and Gaza: Analytical Comparative Study.
- Mostafa Ayyad, The Mediator in the Explanation of the Civil and Commercial Procedures Law, number (2), for the year 2001, First Edition, 2004.
- Nazem Owaida, The Rulings of the Court of Cassation, Gaza, 2005.
- Mostafa Ayyad, The Judicial System and Civil and Commercial Trials, Book One, Gaza, 1997.
- Abbas Al-Aboudi, Description of the Principles of Civil Trials, Dar Al-Thaqafa for Publications and Distribution, Amman, 2006.
- Ahmed Al-Mabeed, Brief Description of the Civil and Commercial Procedures Law, number (2), 2001, First Edition, 2003.
- Faris Al-Khoury, Principles of Legal Trials: Practical and Theoretical Lessons, Al-Dar Al-Arabeya for Publication and Distribution, Amman, 1987.
- Farouq Younis Abu Al-Rub, Introduction to the Explanation of the Principles of Civil and Commercial Procedures Law, number 2 for 2001, Ramallah, 2004.
- Ahmed Khalil, The Principles of Civil Trials, Beirut, Lebanon, Al-Halaby Judicial Publications, 2005.
- Mohamed Ahmed Abdeen, the Principles of Litigation in Certain Lawsuits, Alexandria, Knowledge House, 2005.
- Ahmed Taleb Al-Sowaity, Expedited Litigation in the Laws of the Civil and Commercial Procedures Law, number 2 for 2001, Comparative Study, Hebron, Al-Sowaity, 2004.
- MUSAWA, What's New in the Civil and Commercial Procedures Law, Palestine: The Palestinian Center for the Independence of the Legal Profession and the Judiciary (MUSAWA), 2004.
- Awad Ahmed Al-Zoghbi, The Principles of Civil Trials, The Judicial Organization – Jurisdiction, Litigation, The Rulings and Methods of Objections, Amman, Dar Wael, 2003.
- Elias Abu Eid, The Principles of Civil Trials Between Provisions, Diligence and Jurisprudence: Comparative Study, Beirut, Al-Halaby Legal Publications, 2002-2004.
- Emad Saleem and Mamdouh Alyan, Description of the Principles of the Palestinian Civil and Commercial Trials, number 2, 2001.

Section Two: Court Decisions:

A. Rulings of the Court of Cassation/West Bank:

- Number 38/2004, ruling number 62 on 4/19/2004.
- Number 1/2003, ruling number 10 on 2/3/2003.
- Number 193/2004, ruling number 201 on 1/24/2005.
- Number 242/2005, on 6/10/2006.
- Number 151/2001, on 5/24/2006.
- Number 111/2004, ruling number 156 on 11/10/2004.
- Number 26/2003, ruling number 36 on 10/30/2003.
- Number 27/2005, ruling number 282 on 4/6/2005.
- Number 180/2005, on 5/31/2006.
- Number 167/2004, ruling number 192 on 12/28/2004.
- Number 112/2004, ruling number 147 on 11/10/2004.
- Number 49/2004 rights of the Supreme Court as a Court of Cassation temporarily convened in Ramallah on 4/14/2004.

B. Rulings of the Court of Cassation/Gaza:

- Objection number 24/2004 of the Supreme Court as a Court of Cassation, 10/28/2002.
- Objection number 37/2003 of the Supreme Court as a Court of Cassation, 10/18/2004.
- Objection number 272/2004 of the Supreme Court as a Court of Cassation, 10/5/2005.
- Objection number 382/2003 of the Supreme Court as a Court of Cassation, 6/21/2004.
- Objection number 230/2003 of the Supreme Court as a Court of Cassation, 11/28/2004.
- Objection number 180/2002 of the Supreme Court as a Court of Cassation, 10/26/2003.
- Objection number 145/2003 of the Supreme Court as a Court of Cassation, 7/13/2003.
- Objection number 176/2005 of the Supreme Court as a Court of Cassation, 2/6/2006.
- Objection number 412/2003 of the Supreme Court as a Court of Cassation, 2/6/2006.
- Objection number 305/2003 of the Supreme Court as a Court of Cassation, 9/17/2005.
- Objection number 216/2003 of the Supreme Court as a Court of Cassation, 12/18/2004.
- Objection number 124/2002 of the Supreme Court of Gaza, Session 5/8/2003, Jurisdiction of the Court depends on the general system.
- Number 2/2005 of the Supreme Court of Gaza, Session on 3/14/2005.
- Number 213/2003 of the Supreme Court, Session on 11/11/2005, Article 225, and Article 226.
- Number 39/2003 of the Supreme Court of Gaza, Session on 12/23/2003.

- Number 62/2003 of the Supreme Court of Gaza, Session on 4/27/2003.
- Number 126/2003 of the Supreme Court of Gaza, Session on 11/16/2003.
- Number 38/2003 of the Supreme Court of Gaza, the lawsuit may be revoked due to the lack of follow-up and provision of evidence.
- Number 107/202 of the Supreme Court of Gaza, Session on 2/17/2003.
- Number 141/2002 of the Supreme Court of Gaza, Session on 9/21/2003.
- Number 67/2003 of the Supreme Court of Gaza, Session on 4/22/2004.
- Number 26/2002 of the Supreme Court of Gaza, Session on 10/23/2002.
- Number 133/2002 of the Supreme Court of Gaza, Session on 4/27/2003.
- Number 128/2002 of the Supreme Court of Gaza, Session on 1/3/2004.
- Number 76/2002 of the Supreme Court of Gaza, Session on 12/23/2002.
- Number 186/2002 of the Supreme Court of Gaza, Session on 12/18/2003.
- Number 86/2003 of the Supreme Court of Gaza, on 10/26/2004.
- Number 180/2003 of the Supreme Court of Gaza, on 6/27/2004.
- Number 175/2003 of the Supreme Court of Gaza, on 7/8/2004.
- Number 152/2003 of the Supreme Court of Gaza, Session on 6/20/2004.
- Number 146/2004 of the Supreme Court of Gaza, Session on 7/13/2003.

COURSE OUTLINE NUMBER SEVEN PALESTINIAN LANDLORD AND TENANT LAW IMPLEMENTED IN THE SOUTHERN PROVINCES

PART ONE: GENERAL AND SPECIFIC GOALS

This Course Outline aims to achieve the following general goals:

- Overview of the Palestinian Landlord and Tenant Law implemented in the southern provinces.
- Understanding of the rulings of the Mejelle (Civil Code), the law on Limitation on Rentals number 44 of 1940, and law of limitations of rental of “commercial property” number 61 of 1941.
- Training plan for the study of all the Palestinian laws implemented during the training period, and which will serve as a main focus for the examination.

The training plan which includes a rental contract, always takes into consideration two important laws: law of the Civil and Commercial Procedures Law, and the Evidence Law in Commercial and Civil Actions.

The plan aims to achieve the following specific goals:

- A study of practical problems through diversification of the laws that govern a rental contract.
 - General Law: the Mejelle.
 - Specific Laws:
 - Law of registration of rentals to lodging locations.
 - Law of registration of rentals to commercial properties.
- Review of past legal precedents and the explanation, implementation and development of the rules that govern the rental contract. This review takes into consideration the Mejelle which is a legal inheritance from the Ottoman era and the law of registration of rentals to lodging locations and commercial properties inherited from the British Mandate era.
- Each of these laws has its own philosophy and accordingly, it is important to take into account the current social, economic and political context and the degree to which these laws can regulate the present situation without legal modifications.
- Rental legislation is an important part of all legislation brought to court. It also enjoys a large amount of legal precedents.
- Review of the Civil and Commercial Procedures Law, and the Evidence Law in Commercial and Civil Actions is important during the preparation of rental contracts, which depend on the preparation of templates and vary by type and location.
- Current laws stipulate that rental litigation needs lengthy addressing, even before turning to the court.
- Training must cover a variety of laws, and it must prepare the lawyer in training to differentiate between the scope of implementation of each law and the procedures that are followed in each of these trials.

- Examination to Practice: A skills assessment of the legal ability and the professionalism of the lawyer. The lawyer is assessed on his/her ability to defend his/her client. The examination and training plan will aid the lawyer in succeeding in this activity.

PART TWO: DISTRIBUTION OF THE UNITS OF THE COURSE OUTLINE

Meeting One:

- Describing the rental contract, its nature and what makes it unique from other contracts.
- The parties of the contract.
 - Who has the right to rent (landlord)
 - a) the landlord
 - b) the beneficiary
 - c) the agent
 - d) the intruder
- The Tenant:
 - Provisions of validity.
 - Types of rental.
 - Rental of agricultural land.
 - Rental of vacant land.
 - Rental of moveable property.
 - Rental of property (lodging.)
 - Rental of property (commercial property.)

Meeting Two: Length of Rental:

- Continuation of rental by law.
- Legal extension of the rental contract.
- The rent.
- Clause for rent increase.
- Courts with the jurisdiction to hear rental agreement disputes.
- Origins of rulings for rental courts.
- Guidelines for a rental contract.
- Proving a rental contract.
- Written
- Verbal
- Acknowledgement
- Judicial acknowledgement.
- Non-judicial acknowledgement.
- Decisive oath.

Meeting Three: Results of the Rental Contract

- Responsibilities of the landlord.
- Responsibilities of handing over the rental property.

- Responsibilities of the maintenance of the rental property.
- Responsibility of the landlord to the guarantee.
- Responsibilities of the tenant.
- Responsibility to pay the rent.
- Responsibility for the safeguarding of the property.
- Responsibility to keep property unchanged.
- Responsibility to return the rental property.
- Legal responsibilities: the rent, timeliness of the rent payment, location, evidence, consequences of the rental contract on others.

Meeting Four:

- Expiration of the rental contract.
- Expiration of the time period.
- Expiration before the end of the time period.
- Expiration due to an emergency (escape clause.)
- Expiration due to personal reasons.
- Abstention from payment of rent.
- Use of the property in a harmful manner.
- Destruction of the property.
- Landlord needs to utilize the property and conditions.
- Demolition and construction of the property.
- Requirements for obtaining a license to demolish and construct.
- Landlord needs to provide at least three months notice.
- Delay in paying rent
 - Failing to follow the clauses of the rental contract.
 - Destruction of the property.
 - Use of the property for illegal purposes.
 - Use of the property for specific reasons.
 - Demolition and construction.

PART THREE: REFERENCES

1. Dr. Darwish Medhat Al-Waheedi, Rulings in Rental Law in Palestinian Legislation, Gaza, 1999.
2. Mazen Sisalem, Ishaac Mena, Soliman Al-Dahdouh, A Number of Palestinian Laws, Part Eight, Second Edition, 1992.
3. The Mejelle of elaborated between 1869 and 1875.
4. Dr. Abdel Razek Al-Sanhoury, The Approach to Civil Law, Rentals and Loans, Part 6, Volume 1, Dar of Revival of Arab Culture, Beirut, 1964.

Legal Precedents:

- Waleed Al-Hayek, Select Group of Rulings of the Supreme Court, 1973-1993, Part 2, 1994.
- Appeal court Case number 5/73 “the fair ruler is entrusted with evaluating the need of the landlord for the rental property without intervention from the court of cassation unless there is conviction that this evaluation took place inaccurately”, previous reference, page 9.
- Appeal Court Case number 4/74, “lack of the right to sub-let without permission from the landlord.”
 - It is necessary to pay the overdue rent at the court when the defense of the defendant in the trial.
 - Merely being ready to pay the rent is not enough.
- Trial number 18/74 Appeal Court “The tenant does not have the right to sublet, or to rent part of or all of the property without the permission of the landlord.”
- “Prohibition of the tenant from gaining wealth at the expense of the landlord by renting the subletting the property without the permission of the landlord.” Previous reference, page 34.
- Trial number 29/74, Appeal Court “The original tenant shall not transfer the rental property to his father without the permission of the landlord” Previous reference, page 39.
- Trial number 32/74 Appeal Court “Regarding the tenant, in the validity of the contract, shall not be by way of what has transpired from his end” Previous reference, page 41.
- Trial number 44/74 Appeal Court “the tenant exercises a certain right to the rental contract, and considers it matter of fact and not subject to the request of exercise” Previous reference, page 51.
- Trial number 55/74 Appeal Court “ the validity of the delegation of guarantee by the tenant in the contract with the landlord during his absence ” previous reference, page 61.
- Trial 13/75 Appeal Court “Receiving the rent payment in a manner different from what was agreed upon does not void the agreement.”
 - Even if the tenant vacates the property, there is no law that states that the tenant must return the property at hand as long as the they continue to make lodging payment according to the value agreed upon in clause 8 “a” of the law of rental registration for lodging properties.
 - In this case, equitable justice prevents the halt of payment for a short time period, previous reference, page 85.
- Trial 48/75 Appeal Court “The property under the protection of the law of rental registration for lodging properties of 1940 applies to any home that is rented. Accordingly, a separate residence in the rent that does not apply to any land behind the location on which the home, the garden or other buildings are built upon which lie within the courtyard of the home and each home or section of home rented in this manner is considered a home which this law applies to, the clause 3/a of the mentioned law: empty land is not covered under the protection

- which the rental registration of lodging properties law covers” previous reference, page 96.
- Trial number 75/79 Appeal Court “empty land not covered under the protection stated in the law of rental registration of commercial properties, clause 591” from the Mejele, page 106.
 - Trials numbers 36 and 37/76 Appeal Court “The contract shall end with the death of the lender,” clause 807 from the periodical, previous reference, page 117.
 - Trial 77/76 Appeal Court “necessity of destruction to a point that prevents the viewing of the neighbor” clause 1202 from the Mejele, the necessity valued at its worth previous reference, page 123.
 - Trial number 23/78 “empty land shall not be subject to the law of rental registration for commercial properties, but shall be governed by clause 592,” the periodical.
 - Trial number 85/76 Appeal Court “Law of registration of rental property is a law specifically created to protect tenants of commercial properties and should be expanded to include empty land” previous reference, page 125.
 - Trial number 8/77 Appeal Court “rent shall not be transferred to the heirs of the commercial property” previous reference, page 132.
 - Trial number 56/77 Appeal Court “The value of an instance of delay in payment of rent is the responsibility of the court of the subject, the clauses of the contract shall not be changed without the agreement of both parties” page 137.
 - Trial number 30/79 Appeal Court “Eviction lawsuit by the landlord in accordance with the rulings of the clause 4/1/H from the law of the registration of rental properties (lodging and commercial) number 6 of 1941 is based on two points:
 - It is the landlord’s right to utilize the property as he/she wishes.
 - Decision of the court or the judge that there is another property available for the tenant that is suitable, page 177.
 - Trial number 45/80 Appeal Court “The tenant shall not make any changes or additions to the property without the permission of the landlord” previous reference, page 203.
 - Trial number 47/80 Appeal Court “Rental contracts are personal contracts that only govern the parties involved” previous reference page 205.
 - Trial number 104/81 Appeal Court “Law of registration of rental of lodging properties is an special law which should be widened to cover other interpretations” previous reference, page 271.
 - Trial number 1/82 Appeal Court “Staircase of the building is not covered under the protection of the laws of commercial properties” previous reference, page 278.
 - Trial 4/82 Appeal Court “The court of cassations shall decide the period of just eviction” previous reference, page 281.
 - Trial number 10/84 Appeal Court “The rental contract executed between the guard of the property, in the absence of the landlord, and the tenant is by its nature a special contract. It is established under pressing circumstances and shall not give the tenant any right to remain in the property after the landlord has returned and requested the return of the property” previous reference, page 342.
 - Trial 5/86 Appeal Court “Payment of the rent for commercial properties shall be immediate” previous reference, page 397.

- Trial number 30/87 Appeal Court “The court does not have the right to force the landlord to build in a different manner or in a different location other than what is licensed to him according to the law of rental property” previous reference, page 432.
- Trial number 79/87 Appeal Court “ The law of registration of commercial rental property shall not be applied to a specific region unless the delegate or his designee is authorized to apply for it” previous reference, page 444.
- A select group of rulings of the Palestinian Appeal Court, Southern Provinces, 2001-2002, part G, prepared by counselor Waleed Al-Hayek, Gaza, 2005.
- Objection to cassation number 6/2001 “the rental contract executed between the guard of the property of absentees and between the tenant is a special contract with the particularity of an intrusive rental agreement because it falls on the property of others” previous reference.
- Objection to cassation number 7/2002 “the rental delegate is the person in charge of resolving disputes between the landlord and the tenant in regards to rent increases (The local jurisdiction of the courts related to the general system. The court has the right of cassation of its own volition)”, previous reference.
- Objection to cassation number 84/2002 “the contract which is executed in agreement between two parties holds them to the clauses stated. The intrusive contract is executed between two parties as long as the real landlord does not object to the tenant” previous reference.
- Objection to cassation number 85/2002 “the tenant shall not enlarge the rental house without the permission of the landlord” previous reference.
- Objection to cassation number 98/2002 “Value of the instance of delay in payment of the rent is the jurisdiction of the court of the subject.” Previous reference.
- Objection to cassation number 117/2002 “it is the responsibility of the court to evict the tenant from the property in the event of the cessation of payment of rent” previous reference.
- Objection to cassation number 152/2002 “Expiration of the licenses to demolish and construct does not affect the status of the lawsuit, it is necessary at this point to notify and proceed with a lawsuit after the notification at the appointed time” previous reference.
- Objection to cassation at the higher court in Gaza in the objection number 88/2004 session of 10/21/2004, statement of cessation of payment is at the discretion of the subject’s court.
- Objection to cassation at the higher court in Gaza in the objection number 9/2004 session of 3/14/2004 differentiation between the cessation of payment under the law of commercial rental property and law of lodging rental property.
- Objection to cassation at the higher court in Gaza in the objection number 94/2003 session 2/29/2004.

COURSE OUTLINE NUMBER EIGHT

LABOR LAW

PART ONE: PUBLIC AND PRIVATE GOALS

Labor Law No. 7 is a major pillar in the Training Plan for Trainees. Understanding of this labor law is crucial for all professionals from lawyers to employers or laborers.

The plan seeks to achieve the following general goals:

- To highlight the rights, duties rules, legal rulings and judiciary applications.
- Informing trainees of labor law application through precedents. The rulings of the court of cassation explain work contracts and conditions. Trainees learn what conditions need to be present in a contract, and which ones are invalid or illegal.
- Projection of the spirit and philosophy of the law especially through juridical rulings.

Through lectures, this outline also aims to educate lawyers and trainees about Labor Law No. 7, established in 2000. Below are the training's desired goals:

- Improvement of trainees' skills related to the labor law.
- Informing the trainees about the most important judicial precedents that clarify the application of the labor law.
- Labor law's most important applications :
 - The laborer's rights and duties and the protection of minors and women.
 - The employment contract: its characteristics. The laborer's and employer's obligations, and the salary and benefits.
 - The conditions and circumstances of employment, holidays and compensation for injuries on the job.
 - The expiration and the termination of the contract, end of service entitlements and laborer's protection against arbitrary dismissal.

PART TWO: DISTRIBUTION OF THE UNITS OF THE COURSE OUTLINE

Meeting One:

- The labor law with regards to individuals.
- The sections excluded from the labor law application.
- Laborers' means to protect their rights:
 - Judicial means.
 - Resorting to the judiciary
 - Legal means.
 - Strikes and shutting down
 - Technical means.

- Amicable means.
 - Settling of collective laborers' disputes.
 - Health measures.
 - Provision of health protection measures and occupational safety.
- Protection of Minors and Women.

Meeting Two: Individual Employment Contract and Collective Employment Contract:

- Parts of an individual employment contract.
- Characteristics of an employment contract and its distinction from other contracts.
- Conclusion of a contract and how to prove it.
- The laborer's obligations.
- The employer's authorities – the salary.
- The employer's obligations.
 - Obligations imposed by the general rules – labor – salary:
 - Definition of a salary and its types.
 - Rules for salary calculation.
 - Rules for salary payment.
- Rules for salary protection.
- Obligations imposed by the contract.
- Obligations imposed by the labor law.

Meeting Three:

- Conditions and work conditions in accordance with the law:
 - Hours of work and the weekend.
 - Vacation – annual leave – sick leave.
 - On the job injuries and occupational maladies.
 - Compensation for on the job injuries.
 - Loss of rights in demanding compensation.
 - Possibility of combining compensation and severance pay.
 - Possibility of combining compensation for injury and compensation for arbitrary dismissal.
 - Illegal attachment of compensation for on the job injury.
 - The Medical Committee: appraisal of the laborers' disability.

Meeting Four:

- Expiration of the employment contract.
- Termination of the employment contract, arbitrary dismissal.
- Severance pay.

PART THREE: REFERENCES

Part One: Books

- Dr. Salem Al-Dahdouh, Brief Description of Labor Law, Second Edition, 2004.
- Farid Al-Jalad, Description of the Labour Law, 2002.
- Dr. Mostafa Ayyad, Brief Description of Individual Working Relationships, First Edition, Gaza, 1997.
- Rashid Rashid, Description of the Algerian Labor Law (Individual and Collective Working Relationships) in the Light of Modern Legislative Texts, Diwan of University Publications – the Central Domain Bin ‘Anoun, Algeria, 1985.
- Dhaher Al-Ghandour, Arbitrary Dismissal in Lebanese and Comparative Law, Dar Iqra’, Beirut, Lebanon, 1982.
- Ra’fat Dissouqi, Description of the New Labor Law (Explanation of the Provisions of Law – Opinions of Those Who Described It – Rulings of the Law), Mansha’at Al-Ma’arif, 2004.
- Ahmad Abu Shanab, Description of the New Labor Law, Dar Al-Thaqafah for Publication and Distribution, Amman, 2006.
- Moussa Shukri, On the Job Injuries and Occupational Maladies (Jurisprudence Judicial Analytical Criticism), Democracy Center and Workers’ Rights, 2005.
- Hassan Kirah, Principles of Labor Law (Employment Contract), Third Edition, Mansha’at Maarif Alexandria, 1983.

Part Two: Judicial Rulings

A. Rulings of the Palestinian Court of Cassation in the West Bank:

- Number 21/2003 Rights of the Supreme Court as the Ramallah Court of Cassation, on 9/29/2003.
- Number 39/2005 Rights of the Supreme Court as the Ramallah Court of Cassation, on 4/25/2005.
- Number 41/2004 Rights of the Supreme Court as the Ramallah Court of Cassation, on 4/10/2004.
- Number 46/2004 Rights of the Supreme Court as the Ramallah Court of Cassation, on 5/05/2004.
- Number 56/2004 Rights of the Supreme Court as the Ramallah Court of Cassation, on 5/29/2004.
- Number 75/2004 Rights of the Supreme Court as the Ramallah Court of Cassation, on 7/14/2004.
- Number 87/2005 Rights of the Supreme Court as the Ramallah Court of Cassation, on 6/30/2005.
- Number 107/2005 Rights of the Supreme Court as the Ramallah Court of Cassation, on 6/29/2005.

- Number 124/2004 Rights of the Supreme Court as the Ramallah Court of Cassation, on 11/20/2004.
- Number Rights of the Supreme Court as the Ramallah Court of Cassation, on 1/29/2005.

B. Rulings of the Palestinian Court of Cassation in the Gaza Strip:

- Number 295/2003 of the Supreme Court in Gaza, Session on 12/28/2003.
- Number 313/2003 of the Supreme Court in Gaza, Session on 3/16/2004.
- Number 103/2002 of the Supreme Court in Gaza, Session on 3/25/2003.
- Number 197/2003 of the Supreme Court in Gaza, Session on 11/20/2003.
- Number 225/2003 of the Supreme Court in Gaza, Session on 3/25/2004.
- Number 174/2002 of the Supreme Court in Gaza, Session on 9/30/2003.
- Number 181/2003 of the Supreme Court in Gaza, Session on 11/9/2003.
- Number 319/2003 of the Supreme Court in Gaza, Session on 5/25/2004.
- Number 379/2003 of the Supreme Court in Gaza, Session on 3/25/2004.
- Number 32/2002 of the Supreme Court in Gaza, Session on 12/28/2002.
- Number 96/2003 of the Supreme Court in Gaza, Session on 12/25/2003.
- Number 268/2003 of the Supreme Court in Gaza, Session on 12/28/2003.
- Appeal Number 28/2002 at the Supreme Court as the Court of Cassation, on 12/23/2002.
- Appeal Number 32/2002 at the Supreme Court as the Court of Cassation, on 12/28/2002.
- Appeal Number 91/2002 at the Supreme Court as the Court of Cassation, on 11/23/2002.
- Appeal Number 103/2002 at the Supreme Court as the Court of Cassation, on 3/25/2003.
- Appeal Number 111/2002 at the Supreme Court as the Court of Cassation, on 12/30/2002.
- Appeal Number 319/2003 at the Supreme Court as the Court of Cassation, on 5/25/2004.
- Appeal Number 116/2002 at the Supreme Court as the Court of Cassation, on 9/23/2003.
- Appeal Number 174/2002 at the Supreme Court as the Court of Cassation, on 9/30/2003.
- Appeal Number 197/2003 at the Supreme Court as the Court of Cassation, on 11/20/2003.
- Appeal Number 96/2003 at the Supreme Court as the Court of Cassation, on 12/25/2003.

- Appeal Number 312/2003 at the Supreme Court as the Court of Cassation, on 2/24/2005.
- Appeal Number 313/2003 at the Supreme Court as the Court of Cassation, on 3/16/2004.
- Appeal Number 225/2003 at the Supreme Court as the Court of Cassation, on 3/25/2004.
- Appeal Number 379/2003 at the Supreme Court as the Court of Cassation, on 3/25/2004.
- Appeal Number 67/2003 at the Supreme Court as the Court of Cassation, on 4/22/2004.

COURSE OUTLINE NUMBER NINE CRIMINAL PROCEDURE LAW

PART ONE: SPECIFIC AND GENERAL GOALS

This plan aims to achieve the following general goals:

- Informing the trainee about the Criminal Procedures Law, its definition and the extent to which it is important to have criminal trials in accordance with international standards.
- Comparison of Palestinian law to Arab and foreign laws and the law's observance of general rights and freedoms.
- Observation of the rule of law and the protection of a human's right to a fair trial.

It also aims to achieve the following specific goals:

- Gaining skill to defend basic human rights, and develop the legal endowment to exercise the profession with strength and aptitude.
- The plan also aims to define the lawyer's rights, and the [importance of] non-disposal of his/her client's rights. The lawyer will learn to manage his/her case and serve the good of his/her client by following the procedures and the guarantees acknowledged by the constitution and the Criminal Procedures Law.
- Development of a lawyer's penal legal knowledge, and his professional and moral enablement to respect the profession and to be committed to its ethics and conduct.

PART TWO: DISTRIBUTION OF THE UNITS OF THE COURSE OUTLINE

Meeting One:

- Definition of the Criminal Procedures Law number three of 2001 in terms of filing a case, collecting evidence and finalizing the case.
- The guarantee of a citizen's rights in accordance with the Palestinian Constitution and the Criminal Procedures Law and compared to the international charters regarding investigation, interrogation, accusation, the defendant's right to silence, annulment, legal warning and legal choice.
- Arrest, protective custody, release on bail.

Meeting Two:

- Criminal and civil mandate of the court, the conflict of jurisdiction, and the transfer of the lawsuit to another court of the same level.
- Civil right lawsuit and the evidence in criminal law.
- What is meant by proof in legal matters: the burden of proof, the subject of proof, freedom of proof, the consistency of proof, the judge's freedom in forming his/her opinion based on legal proofs, inspection, experience, the writing, the examination, the cross-examination, the confession, testimony of witnesses, and presumption of innocence.

Meeting Three:

- Principles of trials at first instance courts:
 - The verdict, judgment in presence and judgment in absentia.
 - The preliminary judgment and the final judgment.
 - Conditions for penal ruling and the conditions required for the validity of the judgment, deliberation, pronouncement of the ruling and the conditions required for writing the ruling.
- Inclusiveness of penal law: preamble of the ruling, the reasons, statement of facts in the acquittance ruling, statement of the legal text, proving and clarifying, principle of completion of proofs, response to the defense and requisition, and pronouncement of the ruling.
- Annulment and void of jurisdiction: definition of annulment, types of annulment, partial annulment, absolute annulment, effects of annulment on the proceeding itself and on previous and future proceedings, void of jurisdiction and the differentiation between the void and null.

Meeting Four:

- Appeal: definition of appeal, confirmation of the right to object to the appeal, appeal of the defendant, appeal of the prosecution, civil rights appeal, dates of appeal, consequences of the appeal, the general rule that appeal binds the appeal court to the facts, and the authority of the appeal court in changing the description and the adjustment of the crime.
- Objection by cassation:
 - Rulings that are subject to objection by cassation.
 - Proof of right to cassation and conditions for its commencement.
 - Procedures of objection by cassation.
 - Reasons for objection by cassation.

- Consequences of cassation and the ruling therein.
- Retrial.
- Enforcement of court decisions and problems surrounding enforcement such as the enforcement of the death penalty.
- Rescinding of the penalty through prescription or death of the convict.

PART THREE: REFERENCES

- Criminal Procedures Law number three for the year 2001.
- Matters existing in the Palestinian Constitution and related to the basic freedoms.
- The International Declaration of Human Rights.
- The International Charter of Civil and Political Rights.
- The European Convention on Human Rights.
- The International Convention Against Torture.
- The International Code for the Conduct of Employees in Charge of Executing the Law.
- The Rulings of Egyptian Law and Human Rights, Center of Justice for Human Rights, Cairo.
- Ali Al-Na'ouq, A Human Being's Right to Life, A Human Being's Right to Freedom and Security, A Human Being's Right not to be Subjected to Torture, Inhumane Treatment and Humiliation, A Human Being's Right to Fair Justice in Accordance with the Palestinian Law and the International Legitimacy for Human Rights, From the Publishing of Arab Lawyers' Association for the Sake of Human Rights, 1992.
- Sami Saba, Penal Procedures in Palestine, for Information and Action.
- Me'awadh Abdel Tawab El-Wassit, In the Rulings of the Egyptian Penal Court of Cassation.
- Rulings of the Palestinian Supreme Court in Gaza in a Period of Fifty Years.

Precedents of Appeals:

- The times of appeals, as related to the times of cassations in rulings, is considered part of the appellate system, see objection of February 13, 1951, Collective of Rules.
- Objection of October 11, December 31, 1959, Collective of Rules, Part 1, 220, 220 number 176, 177, where the court ruled for the annulment of the preliminary law, the annulment does not apply to the objection proceedings, which took place before the court of first degree according to the law.

Precedents in Objections by Cassations:

- Objections by cassations should not take place in the interest of the law, as long as the interest of the opponent does not exist. Objection of 17 June, 1967, collective, section a, 345, number 36.
- Cassation of November 12, 1967, collective of rulings section 18, number 229, the annulment of the ruling, due to the lack of contact of the court with the incident according to the law and by presenting the defendant with a new office before a second degree court which was not presented to the first degree court objection of November 25, 1968.

COURSE OUTLINE NUMBER TEN PALESTINIAN CRIMINAL LAW OF 1936 IMPLEMENTED IN THE GAZA STRIP

PART ONE: GENERAL AND SPECIFIC GOALS

This Course Outline aims to achieve the following general goals:

- A general glimpse at the criminal law number 74 of 1936 implemented in the Southern Provinces of the Gaza Strip and which continue to be used until this day. The law was put in place during the British Mandate in Palestine. It is considered to be a complete and inclusive law (inclusion of all crimes and punishments and is comprised of 391 articles).
- Explanation of the philosophy of the law in general and the purposes considered by the legislator during its assignment, and accordingly, the trainees will be able to review the types of crimes, and their explanations so that they form an idea on what the criminal law contained in terms of crimes and punishments.

The outline also aims to achieve the following specific goals:

- Placement of the trainee in the situation that the legislator faced upon deciding the crime and its punishment, and focusing on the fact that this law was put in place to protect the interests of the British Mandate in Palestine. Additionally, taking into account the fact that this law should be abolished to make way for a Palestinian law that takes into consideration the Palestinian identity, and which would protect Palestinian interests from a nationalistic and realistic perspective that serves the needs of society. In actuality, there has been a newly proposed criminal law, which has not yet been presented to the legislative council.
- Concentrating on the fact that this law does not conform to the basic rules that protect human rights in many of the crimes committed and the punishments rendered, and that the decided penalties are too harsh and sometimes improper. Therefore, the focus should be on clarifying crimes by removing all that does not comply with international criteria for human rights, and bringing forward the points of weakness and failure and those of exaggeration and overstatement.
- Development of the lawyer's legal aptitude in the field of criminology; the refurbishing of his personality, training him to think, deduce and to select the best methods for the adaptation of the criminal law in describing the crime.

PART TWO: DISTRIBUTION OF THE UNITES OF THE COURSE OUTLINE

Meeting One:

- Application of local law, and general rules concerning the penal responsibility and accessories.
- Explanation of the types of punishments as specified by Palestinian law: crimes that are harmful to public order, crimes that disrupt the constitution and social order, crimes that affect foreign countries and security, and the crimes that upset the public wellbeing.

Meeting Two:

- Understand crimes that fall under the mis-use of legal authority (bribes, abuse of power), crimes that are related to the management of justice, resistance to court employees and crimes that are committed against public authority.
- Crimes related to the sanctity of marriage and family, and crimes committed against public morals and public health.
- Defamation.

Meeting Three:

- Crimes that are committed against people's lives: premeditated murders and intended killings and suicide (discussion of the death penalty in the West Bank and Gaza.)
- The stance on international legality of human rights with regards to penalties, [especially with respect to the] United Nations Organization, and the European Council. Additionally, examples are presented with regards to the protection of the right to live, and the dangers of the death penalty.

Meeting Four:

- Crimes against personal freedom, such as theft, stealing and attacks. Focus is made on differentiating between these crimes.
- Embezzlement, cheating, betrayal of trust, presenting false accounts and forgery, and the forging of paper money.
- Identity theft and breaches.

PART THREE: REFERENCES

- It is presumed that a court is justified in deducing a previous agreement from an action that took place after the commitment of the crime and will be observed. Objection number 680 for the year 46, session of 3/21/1977.
- The necessity that surrounds the individual and pushes him to commit the crime in self defense or in defense of someone else from a great danger that is about to happen and provided that the crime was the only solution to prevent the danger. Objection number 113 for the year 1945, session of 11/2/75, p (?) 26 – 675.
- An accident is considered compelling if the perpetrator is not involved in the harm that happened or was able to prevent it. Objection number 1254 for the year 47, session of 3/27/1978.
- Identification of the words of insult and defamation as one of the prerogatives of the judge in his analysis of the trial. Objection number 4403 for the year 1952, session of 11/29/1982.
- A criminal intention when committing a crime of theft consists of knowledge of the perpetrator at the time of the crime. Objection number 1244 for the year 1945, session of 7/5/8.
- Preparation of the tools of forgery and their use in preparing currency is a crime of forgery. Objection number 1526 for the year 1945, session of 4/4/1976.
- Maturity of a check is required by commercial law for the identification of a crime of issuing a check without available funds. A date on a check is one of its legal elements. Objection number 878 for the year 1945, session of 6/9/1975.
- Fulfillment of the value of a check before its maturity date does not banish the existence of the crime. Objection number 11 for the year 1946, session of 4/4/1976, and the objection number 70 for the year 1946, session of 4/18/1976.
- The necessity of a check containing one date, as an element of fulfillment. Objection number 190 for the year 1946, session 5/17/1976.

- Availability of a link to the causation between the error and the occurrence of the injury is a required for accusation. Objection number 1532 for the year 2/17/1980.
- Threatening to assault the victim, stalk them and verbally assault them on seeing them, is a sufficient proof for premeditation Objection number 1323 for the year 1947, session of 3/19/1978.
- Premeditation is a mental state that can be proved by outward appearances and objectives. Objection number 1885 for the year 1948, session of 3/18/1979.
- Depiction of premeditation: premeditation is a mental state that occurs inwardly in a perpetrator and may not have immediate apparent signs. A judge may perceive it from occurrences and outside circumstances if such occurrences do not contradict the logical deductions. Objection number 47 for the year 1947, session of 4/25/1988, and objection number 1183 for the year 1946, session 3/6/1977, and objection number 221 for the year 1947, session 10/23/1077.

TRAINING PLAN FOR THE JORDANIAN PENAL LAW OF 1960 APPLIED IN THE WEST BANK

This Course Outline aims to achieve the following general goals:

Meeting One:

- Identification of the penal law and the laws in general that state penalties for crimes, misdemeanors, offences, and precautionary measures.
- Informing the lawyer about the possible penalties found in the laws related to antiquities, traffic and the Bar Association.
- Informing the lawyer of lawsuits related to misdemeanors not punishable by incarceration, crimes that depend upon the complaint by the victim, and instances of suspension of the lawsuit.

Meeting Two:

- Revocation and penal rulings, the legal description of a theoretical and practical crime, and fiscal related crimes.

Meeting Three:

Crimes in accessory, force majeure, lack of liability, applicable excuses and reduced excuses in crimes against the security of the country:

- Treason.
- Crimes related to international law.
- Espionage.
- Communication with the enemy for illegal purposes.
- Profiteering at the expense of the country.
- Crimes committed by officials.
- Crimes committed against the constitution.
- Crimes committed at the expense of internal security.

Meeting Four:

- Crimes unrelated to murder.
- Various levels of theft.
- Rape.
- Sexual assault and harassment.

All these lectures will be delivered through presentations of court cases already brought before courts or currently being addressed.

References to the Penal Code; many references, precedence, and previous court rulings have already been mentioned and are possible points of reference.

- Jordanian penal law of 1960.
- Rulings of the Jordanian Court of Specification.
- Rulings of the Palestinian Court of Cassation.
- The legal encyclopedia – Gindi Abdel Malek.