Penal Procedure

Law No. 3 of 2001

The Chairman of the Executive Committee of the Palestine Liberation Organization,

The Chairman of the Palestinian National Authority,

After reviewing:

First:

- The Law of 1992 on Violating the Dignity of the Court, and
- Procedural Law No. 4 of 1924 governing Penal Trials (Arrest and Investigation), and
- Procedural Law No. 22 of 1924 governing Penal Trials (Accusatory), and
- Law No. 35 of 1926 on Investigative Judges in Suspicious Deaths, and
- Law No. 37 of 1926 on the Defense of Indigent Prisoners, and
- Law No. 21 of 1934 Amending Trial Procedures, and
- Law No. 24 of 1935 on Penal Trial Procedures, and
- Law No. 7 of 1937 on Investigations into the Causes of Fires, and
- Law No. 28 of 1944 on Release on Bail, and
- Law No. 70 of 1946 on Penal Trial Procedures [Lower Court Cases Before Courts of General Jurisdiction], and
- Law No. 45 of 1947 on the Jurisdiction of Conciliation Courts, and
- Order No. 269 of 1953 concerning the Jurisdiction of the Felony Court, and
- Order No. 473 of 1956 concerning the Functions of the Public Prosecution, and
- Order No. 554 of 1957 investing the Attorney General and his Representatives with the Prerogatives of Investigative Judges in Suspicious Deaths, and
- Rehabilitation Law No. 2 of 1962, and
- Chapter Twenty-Six of the Procedural Law of 1940 on Palestinian Trials before the Conciliation Courts in force in the Governorates of Gaza.

Second:

- Jordanian Law No. 15 of 1952 on Conciliation Courts, and
- Jordanian Law No. 9 of 1959 on Violating the Dignity of the Court, and
- Jordanian Law No. 9 of 1961 on Penal Trial Procedures in force in the West Bank Governorates,

The Legislative Council has ratified and

We have promulgated the following Law:

Book One

The Penal Action, the Gathering of

Evidence and the Investigation

Part One
The Penal Action

Chapter I

The Right to File a Penal Action

Article (1)

The right to file and conduct a penal action is vested exclusively in the Public Prosecution, and it shall not be filed by others except in those cases where the law provides otherwise.

The action may not be suspended, waived or abandoned, nor may it be delayed or settled out of court except in those cases where the law provides otherwise.

Article (2)

The Attorney General shall prosecute the penal action himself or through one of the members of the Public Prosecution.

Article (3)

The Public Prosecution is held to set the penal action in motion if the injured party constitutes himself a civil claimant pursuant to the rules prescribed by law.

Article (4)

1. The Public Prosecution may not conduct an investigation or file a penal action whose institution is statutorily conditioned on a complaint, a civil claim, a requisition or a warrant except on the basis of a written or oral complaint from the victim or his private attorney, of a civil claim from him or his private attorney, or of a warrant or requisition from the competent authority.

2. Actions whose prosecution is made conditional by law on a complaint or on a civil claim by the victim may be waived until a final judgment is rendered thereon. When there are multiple victims, the waiver shall not operate unless it is issued by all of them. A waiver in respect of one of the accused is deemed a waiver as towards the others.

3. When there are multiple victims, the presentation of a complaint by one of them is sufficient, and when there are multiple accused and the complaint is presented against one of them it shall be deemed as having been presented against all of them.

Article (5)

In all cases in which the institution of a penal action is statutorily conditioned on the filing of a complaint or a civil claim by the victim or a third party, the complaint shall not be accepted after the lapse of three months from the date the victim learnt of the incident complained of and of its author, save as otherwise prescribed by law.

Article (6)

(1) If the victim in the cases referred to in article (5) of this Law is below the age of fifteen or is mentally impaired, the complaint shall be submitted by his guardian, custodian or trustee.

(2) In the event of a conflict of interest between the victim and his representative or if the victim does not have a representative, the Public Prosecution shall represent him.

Article (7)

The right to file a complaint lapses with the death of the victim. If death occurs after the complaint has been filed, this shall not affect the conduct of the action and the decedent's right of waiver shall devolve to his heirs except in cases of adultery, where any of the children of the complaining spouse from the spouse complained against may waive the complaint and terminate the action.

Article (8)

Any person against whom a penal action is instituted is called the accused.

Chapter II
Extinction of the Penal Action

Article (9)

The penal action shall be extinguished in any of the following cases:

1. Repeal of the law criminalizing the act.

2. General amnesty.

3. Death of the accused.

4. Prescription.

5. Rendition of a final judgment thereon.

6. Any other reason provided by law.

Article (10)

1. The extinction of the penal action shall not prevent the confiscation of seized items.

2. The party injured by a crime is entitled to demand the recovery of seized items whose possession is not deemed a crime, unless such right has lapsed pursuant to law.

Article (11)

The civil action remains under the jurisdiction of the court seised of the penal action. If the penal action has not been instituted, jurisdiction over the civil action lies with the competent civil court.

Article (12)

1. The prescription period for the penal action and the civil action is ten years in felonies, three years in misdemeanours and one year in contraventions, unless otherwise provided by law.

2. In all cases, the prescription period for penal actions shall be calculated as from the date of the last procedure taken therein.

3. Without prejudice to the provisions of the two preceding paragraphs, the prescription period for penal actions in crimes of public functionaries shall not begin to run except from the date of the discovery of the crime, the termination of service or the extinction of capacity.

Article (13)

The prescription period is interrupted when any of the procedures of gathering evidence, investigation, accusation or trial are taken, if they are taken as towards the accused or if he was officially notified thereof. The period shall commence to run anew as of the day it was interrupted. When the procedures interrupting the prescription period are multiple, it shall commence to run anew from the date of the last such procedure.

Article (14)

The interruption of the prescription period in respect of one of the accused entails its interruption in respect of the other accused, even if no procedures interrupting the prescription period were taken against them.

Article (15)

The prescription period for a penal action shall not be interrupted for any reason whatsoever.

Article (16)

Settlements may be reached in contraventions and misdemeanours which are punishable only by a fine. The competent judicial officer is held, when transcribing the minutes, to propose a settlement to the accused in the contravention or to his attorney and to establish same in the minutes. The proposal for a settlement in a misdemeanour shall be made by the Public Prosecution.

Article (17)

An accused who accepts a settlement is held to pay a sum equivalent to one quarter of the maximum amount of the fine prescribed for the crime or the value of the minimum amount prescribed therefor, whichever is lower, within fifteen days from the date following his acceptance of the settlement.

Article (18)

The penal action is extinguished upon payment of the settlement amount. This shall not affect the civil action.

Part Two

The Gathering of Evidence and the Institution of the Action

Chapter I

Officers Invested with Judicial Powers and their Duties

Article (19)

1. The members of the Public Prosecution shall exercise judicial powers and supervise officers invested with judicial powers each within the circuit of his jurisdiction.

2. Judicial officers shall undertake to seek out and investigate crimes and their perpetrators and to gather the evidence necessary for the investigation in the trial.

Article (20)

1. The Attorney General shall supervise the judicial officers and they shall be subject to his control in the exercise of the functions of their post.

2. The Attorney General may ask the competent authorities to take disciplinary measures against any person for breach or dereliction of duty without this preventing such person from being called to account under the penal statutes.

Article (21)

Officers invested with judicial powers include the following:

1. The police commissioner and his deputies and the police chiefs of governorates and general districts.

2. Officers and non-commissioned officers of the police, each within his bailiwick.

3. Masters of vessels and captains of aircraft.

4. Functionaries who are statutorily invested with judicial powers.

Article (22)

Judicial officers are required to perform the following in accordance with the provisions of law:

1. Accept the reports and complaints addressed to them in connection with crimes, and present same without delay to the Public Prosecution.

2. Conduct examinations and searches and obtain all clarifications as are necessary to facilitate the investigation, as well as seek the assistance of experts and witnesses without administering the oath.

3. Take all necessary measures to preserve evidence of the crime.

4. Transcribe all the procedures they take in official minutes signed by them and by the party concerned.

Article (23)

Without prejudice to the provisions of articles (16), (17) and (18) of the present law, the competent judicial officer shall remit the minutes and seized items related to the contraventions coming under his jurisdiction to the competent court and shall follow up before such court.

Article (24)

Any person who learns of the occurrence of a crime may report same to the Public Prosecution or to a judicial officer, unless the law makes the institution of the penal action flowing therefrom conditional on a complaint, a requisition or a warrant.

Article (25)

Every constituted authority and every public official who, in the performance of his duties or by reason of the performance thereof, acquires knowledge of a crime, is held to report same to the competent authorities unless the law makes the institution of the penal action flowing from such crime conditional on a complaint, a requisition or a warrant.

Chapter II

Flagrant Crimes

Article (26)

A crime is qualified as flagrant in any of the following cases:

1. While it is being or just after it has been committed.

2. If its perpetrator is pursued by the victim or by public clamour in the wake of its commission.

3. If its perpetrator is found shortly after its commission in possession of tools, weapons, effects, papers or other items which permit an inference that he committed or participated in the crime, or if he exhibits traces or marks conducive to such inference.

Article (27)

In a case of flagrant felony or misdemeanour, the judicial officer who is advised thereof is held to proceed immediately to the scene of the crime in order to inspect the material evidence and secure same. He shall establish the condition of the premises, of persons and of everything which may serve to make the truth manifest, and hear the testimony of whoever is present at the scene or of any person capable of furnishing information on the crime and its perpetrators. He is held to notify the Public Prosecution immediately, and the competent member of the Public Prosecution shall, promptly upon being notified of a flagrant felony, proceed to the scene.

Article (28)

1. The judicial officer who proceeds to the scene of a flagrant crime may prevent those present from leaving the scene of the crime or from distancing themselves therefrom until his written report is completed, and may immediately summon and hear all persons capable of furnishing him with information in connection with the incident.

2. Any person who violates the provisions of paragraph (1) above or who refuses to comply with a summons shall be punished by imprisonment for a term of not more than one month or by a fine of not more than fifty Jordanian dinars or their equivalent in legal tender.

Chapter III

The Arrest of the Accused

Article (29)

No person may be arrested or imprisoned except by order of the competent authority as designated by law. He must be treated in a manner that will preserve his dignity and may not be physically or morally harmed.

Article (30)

The judicial officer may, without a warrant, arrest any person present when there is evidence sufficient to charge him in the following cases:

1. The case of a flagrant felony or of a flagrant misdemeanour punishable by imprisonment for a term of more than six months.

2. If he resists the judicial officer during the latter's performance of the duties of his post, or if he was legally detained and escaped or tried to escape from the place of detention.

3. If he commits or is accused of committing a crime before the judicial officer and refuses to give his name and address or if he has no known or permanent residence in Palestine.

Article (31)

1. If the accused is not present in the cases mentioned in the preceding article, the judicial officer may obtain an arrest warrant against him and record same in the report.

2. If there is sufficient evidence to charge a person with a felony or with a misdemeanour that is punishable by imprisonment for a term of more than six months, the judicial officer may ask the Public Prosecution to issue an arrest warrant against such person.

Article (32)

Any person who witnesses a flagrant felony or misdemeanour is entitled to apprehend the perpetrator and take him to the nearest police station without waiting for the issuance of an arrest warrant by the Public Prosecution.

Article (33)

The accused in flagrant crimes in which the initiation of the action flowing therefrom is conditional on a complaint may not be arrested unless the party entitled to make such complaint exercises his right to do so. The complaint may be presented to any competent member of the public authority who is present.

Article (34)

The judicial officer is held to hear the statement of the person arrested immediately and, if such person fails to come forward with justification for his release, to send him within twenty-four hours to the competent deputy prosecutor.

Article (35)

If the person to be arrested resists or attempts to evade arrest or if he tries to escape, the judicial officer shall be entitled to resort to all means as may reasonably be required to apprehend him.

Article (36)

The judicial officer or the private citizen arresting an accused is entitled to strip him of the weapons and tools found in his possession and to deliver same to the competent authority before which he law requires the arrestee to be brought.

Article (37)

Any individual may assist the judicial officer or the private citizen who asks for his help in a reasonable manner to arrest a person he is empowered to arrest or to prevent such person from escaping.

Article (38)

1. In those cases in which the law allows an accused to be arrested, the judicial officer may search the accused and draw up a list of the objects seized. The list is signed by the accused and deposited in the place designated for same.

2. The accused is given a copy of the list of objects seized if he so requests.

Chapter IV

The Search

Article (39)

1. Entering and searching homes is an act of investigation which may not be conducted except pursuant to a search warrant from the Public Prosecution or in its presence, either on the basis of an accusation charging a person living in the house required to be searched of committing or participating in the commission of a felony or misdemeanour, or on the basis of strong evidence that he is in possession of items related to the crime.

2. The search warrant must be reasoned.

3. The warrant is made out in the name of one or more judicial officers.

Article (40)

The search warrant is signed by the competent member of the Public Prosecution and includes the following:

1. The surname and given names of the owner of the house to be searched.

2. The address of the house to be searched.

3. The object of the search.

4. The name of the judicial officer authorized to conduct the search.

5. The validity period of the search warrant.

6. The date and hour it was issued.

Article (41)

Domiciliary searches must be conducted by day, and a house shall not be entered at night unless it is the scene of a flagrant crime or if exigencies so warrant.

Article (42)

The person inhabiting the house or the person responsible for the premises required to be searched is held to allow access thereto and to provide the necessary facilities. If he bars entry to the house, the judicial officer is entitled to gain admission by force.

Article (43)

The search is conducted in the presence of the accused or of the person in possession of the house. If such requirement cannot be fulfilled, it shall be conducted in the presence of two witnesses from among his relatives or his neighbours and the fact noted in the minutes of the investigation.

Article (44)

If there is a suspicion based on serious reasons that a person present in the place where the search is underway is concealing one of the articles being sought, the judicial officer may subject him to a body search.

Article (45)

Persons who are present in the house while it is being searched may be detained by the officer conducting the search if he fears they may obstruct or delay the search, provided he releases them once the search has been completed.

Article (46)

If the member of the Public Prosecution requires the disclosure of any document or object related to the investigation and the person in possession of such document or object refuses to furnish same without an acceptable excuse, he may order the necessary search-and-seize operation to be conducted.

Article (47)

If the person required to be searched is female, she may only be searched by another female deputed for this purpose by the person in charge of the search operation.

Article (48)

The competent authorities are prohibited from entering houses without a search warrant except in one of the following cases:

1. A request for assistance from inside the house.

2. Cases of fire or drowning.

3. If there is a flagrant crime inside the house.

4. In the event a person who must be arrested or who escaped from a place where he was legally detained is followed to the house.

Article (49)

In the discharge of their duties during a search operation, judicial officers may call on the assistance of police or military forces when necessary.

Article (50)

1. Only objects connected to the crime in respect of which the search is conducted may be searched. However, if during the search objects whose very possession is deemed a crime or which serve to reveal the truth in another crime come to light, they may be seized by the judicial officer.

2. All objects related to the crime which are found during the search are seized, inventoried and sealed. They are evidenced in the minutes and remitted to the competent authorities.

3. Documents that are sealed or closed in any other way found in the house being searched may not be opened by the judicial officer.

4. Minutes of the search are transcribed by the officer in charge of the search, citing the objects seized and the location in which they were found, and signed by those present during the search procedures.

Article (51)

1. The Attorney General or one of his assistants may seize letters, communications, newspapers, printed matter, parcels and telegrams at post and telegraph offices when such relate to the crime and its perpetrator.

2. He may also tap telephone and wireless communications and record conversations in private places on the basis of an authorization from the conciliation judge when such is useful in revealing the truth in a felony or a misdemeanour punishable by imprisonment for a term of not less than one year.

3. The search warrant or the tapping or recording authorization must be reasoned and remains in force for a period of not more than fifteen days, subject to renewal once.

Article (52)

Non-compliance with any of the provisions of this chapter entails nullity.

Chapter V

Dispositions by the Public Prosecution

after Gathering Evidence

Article (53)

If, on the basis of the evidence-gathering minutes, the Public Prosecution believes a case involving a contravention or a misdemeanour is ready for judicial review, it orders the accused to appear immediately before the competent court.

Article (54)

None but the Attorney General or one of his assistants may institute a penal action against a public employee, a civil servant or an officer invested with judicial powers for a felony or misdemeanour he committed during or by reason of the performance of his job.

Part Three

The Investigation

Chapter I

Conducting the Investigation

Article (55)

1. The Public Prosecution is exclusively competent to investigate crimes and to take action in respect thereof.

2. The Attorney General or the competent deputy prosecutor may mandate one of the competent members of the judicial officer corps to perform any of the acts of investigation in a specific case, except for the interrogation of the accused in a felony.

3. The mandate must not be general.

4. Within the scope of his mandate, the mandatary exercises all the powers conferred on the deputy prosecutor.

Article (56)

The Public Prosecution conducts the investigation promptly upon learning of the crime.

Article (57)

The deputy prosecutor may, when the situation calls for a procedure to be taken outside the circuit over which he exercises jurisdiction, issue a rogatory commission to his counterpart in the circuit in which the procedure is required to be taken to act in his stead, and the latter shall exercise full jurisdiction in this connection.

Article (58)

The deputy prosecutor is accompanied in all the investigation procedures by a clerk to take down minutes and countersign them with him.

Article (59)

The procedures of the investigation and the results thereof are among the secrets that may not be divulged, and their divulgence is deemed a crime punishable by law.

Article (60)

The investigation is conducted in the Arabic language. The deputy prosecutor hears the testimony of parties or witnesses ignorant of the language through an interpreter, who takes an oath to perform his task scrupulously and impartially.

Article (61)

The parties are notified of the date and place at which the investigation will be conducted.

Article (62)

The parties may communicate such statements and demands as they consider necessary to the deputy prosecutor during the investigation.

Article (63)

The accused, the injured party and the civil claimant may request copies of the documents and papers of the investigation, at their own expense.

Chapter II

The Commissioning of Experts

Article (64)

The deputy prosecutor seeks the assistance of the competent physician and other experts to establish the condition of the crime committed. The physician so commissioned and other experts take the necessary procedures under the supervision of the authority conducting the investigation. The investigator may attend while the experts are carrying out their mission if he deems such to be in the interest of the investigation.

Article (65)

The technical expert may perform his commission in the absence of the parties.

Article (66)

The expert is held to file a technical report on his work within the time-limit determined by the investigating deputy prosecutor, with due regard to the presence of perishables.

Article (67)

The deputy prosecutor may replace an expert who is remiss in his duties or who fails to file his report within the prescribed time-limit.

Article (68)

The expert must take an oath to perform his task scrupulously and impartially prior to embarking thereon, unless he is inscribed in the roster of legally accredited experts.

Article (69)

The expert presents a reasoned report and signs each page thereof.

Article (70)

The accused may seek the assistance of a consultant expert and request that he be allowed to view the documents, provided this shall not delay the course of the procedures.

Article (71)

The parties may recuse the expert if they have serious reasons to do so. The recusal application, which must be reasoned, is presented to the investigating deputy prosecutor, who is held to submit it to the Attorney General or one of his assistants to issue a decision thereon within three

days from the date of its submission. Presentation of the application entails the discontinuance of the expert's mission, unless otherwise decided. The decision must in such case be reasoned.

Chapter III

The Disposition of Objects Seized

Article (72)

1. The objects seized are placed in sealed containers on which the particulars of the contents are inscribed. The containers are placed in the warehouse of the Prosecution or in any place it designates.

2. If the object seized is perishable and the expenses of preserving it exceed its value, the Public Prosecution or the court may order it sold at public auction if the requirements of the investigation so permit. The proceeds of the sale are placed in the court registry and the person entitled to the proceeds may claim the sale price within one year from the date the action is terminated, otherwise it shall devolve to the State without necessity for a judgment ordering same.

Article (73)

1. Seized objects may be restituted, even before rendition of judgment, at the request of the person in whose possession they were found at the time they were seized, unless their retention is necessary for the judicial examination or they are subject to mandatory confiscation.

2. If the seized objects are those against which the crime was committed, or if they were obtained as a result of its commission, they shall be restituted to the person who was deprived of their possession by the crime, unless the person in whose possession they were found at the time they were seized is entitled by law to retain them.

Article (74)

The restitution order is issued by the Public Prosecution. The court may order restitution *pendente lite*.

Article (75)

The order to retain papers or the judgment rendered on the case must provide for the manner of disposition of the seized objects.

Article (76)

The parties may, when a dispute arises in connection with the seized objects, resort to the competent civil court.

Chapter IV

The Hearing of Witnesses

Article (77)

The deputy prosecutor or the mandated investigator may summon all persons whose testimony he deems useful in revealing the truth, whether or not their names are included in the complaints or denunciations, and may hear the testimony of any person who appears voluntarily. In such case, this shall be recorded in the minutes.

Article (78)

The deputy prosecutor charges the competent authorities with summoning the witnesses by means of citations to be delivered to them at least twenty-four hours before the date scheduled to hear their testimony.

Article (79)

The deputy prosecutor establishes the identity of the witness, his name, age, occupation, domicile, address and the degree to which he is related to one of the parties and transcribes same in the minutes before hearing and transcribing the testimony of the witness.

Article (80)

Witnesses are heard separately by the deputy prosecutor after taking the oath, in the presence of the clerk of the investigation. The questions put to them and their answers thereto are transcribed in minutes.

Article (81)

The answers given by the witness are read out to him and he shall ratify them with his signature or fingerprint. If he refuses or is unable to do so, the fact is recorded in the minutes and signed by the deputy prosecutor and the clerk of the investigation.

Article (82)

1. The parties may, after the testimony of the witness has been heard, request the deputy prosecutor or the mandated investigator to question the witness on points not addressed in his testimony.

2. The deputy prosecutor may refuse to direct any question to the witness that is unrelated to the case or that will not serve to reveal the truth.

Article (83)

1. Persons below the age of fifteen may be heard for information only without taking the oath.

2. The parents, offspring and spouse of the accused are exempted from taking the oath unless the crime was committed against any one of them.

Article (84)

The deputy prosecutor is entitled to confront the witnesses with one another, as well as to confront them with the accused, if the situation so warrants.

Article (85)

If the witness does not appear after being summoned for the first time, a second citation will be served on him and, if he again fails to appear, the deputy prosecutor will issue a writ of attachment against him.

Article (86)

If a witness is unable to appear for health reasons, the deputy prosecutor proceeds to his domicile in order to hear his testimony if he lives within the prosecutor's jurisdictional limits. If he lives outside such limits, the prosecutor issues a rogatory commission to his counterpart within the jurisdictional limits of whom the witness's domicile is located to hear his testimony. The testimony is delivered in a sealed envelope to the deputy prosecutor in charge of the investigation.

Article (87)

If the deputy prosecutor finds that the health condition of the witness is not such as to justify his failure to appear, he may issue a writ of attachment against him.

Article (88)

If a witness appears and refuses to testify or to take the oath without an acceptable excuse, he shall be punished by the competent court with a fine of not less than fifty and not more than one hundred Jordanian dinars or their equivalent in legal tender and/or with imprisonment for a term of one week. If the witness retracts his refusal before the end of the trial, he may be exempted from punishment.

Article (89)

If the deputy prosecutor is persuaded that taking the oath would violate the religious beliefs of a witness, his testimony may be heard and transcribed after he asserts that he will tell the truth.

Article (90)

If a man of religion is summoned to take an oath before the Public Prosecution or the court and requests that the oath be administered by his bishop or religious superior, he is held to present himself before either of them forthwith and to take an oath to answer all the questions put to him

truthfully. He shall return with a certificate from such authority attesting that the oath has been duly administered, whereupon his testimony will be heard.

Article (91)

The transcript of the testimony may contain no interlineations, erasures or insertions. Such as do occur must be signed by the deputy prosecutor, the clerk of the investigation and the witness, failing which the erasure or insertion is without effect.

Article (92)

The parties, their attorneys and the civil claimant are entitled to read the minutes of the investigation as soon as they have been completed, after obtaining permission from the Public Prosecution.

Article (93)

The deputy prosecutor shall – at the request of the witnesses – estimate the expenses they incurred by reason of their presenting themselves to testify.

Chapter V

The Interrogation

Article (94)

The interrogation is the systematic questioning of the accused in connection with the acts imputed to him, during which he is confronted with the facts, questions and suspicions related to the accusation and asked to respond thereto.

Article (95)

The deputy prosecutor conducts the interrogation of the accused in all felonies, as well as in such misdemeanours as he deems an interrogation to be necessary.

Article (96)

1. At the first appearance of the accused at the interrogation, the deputy prosecutor is held to establish his identity, name, address and occupation, question him on the charge imputed to him, demand that he respond to same, advise him of his right to the assistance of counsel and warn him that all he says may be used as evidence against him in the trial.

2. The statements of the accused must be established in the minutes of the interrogation.

Article (97)

1. The accused has the right to remain silent and not to respond to the questions put to him.

2. The accused is entitled to postpone the interrogation for twenty-four hours pending the arrival of his counsel. If his counsel does not appear, or if the accused decides not to appoint counsel, he may be interrogated immediately.

Article (98)

The deputy prosecutor may interrogate the accused before inviting his counsel to attend in the event of a flagrant crime, necessity, urgency or fear that the evidence may be lost, provided the grounds for precipitating the interrogation are stated in the minutes. Counsel for the accused is entitled to read his client's statements after the interrogation is over.

Article (99)

Before interrogating an accused, the deputy prosecutor must subject him to a physical examination and establish the visible injuries he sees and the reasons for their occurrence.

Article (100)

The deputy prosecutor orders medical and psychological examinations of the accused by the competent authorities, either *sua sponte* when he deems them necessary or at the request of the accused or his counsel.

Article (101)

In the event the accused expresses any defense, the deputy prosecutor is held to establish same in his report and to list the names of the defense witnesses cited by the accused, summon them to appear and prevent them from mingling with one another before they are questioned.

Article (102)

1. Each of the parties is entitled to the assistance of counsel during the investigation.

2. Counsel may not speak during the investigation except with the permission of the deputy prosecutor. If the permission is withheld, this must be established in the minutes.

3. Counsel is allowed to review the investigation preceding the interrogation in respect of his client.

4. Counsel may present a memorandum with his comments.

Article (103)

The Attorney General may, in cases of felonies and in the interests of the investigation, decide to prohibit communication with the accused for a period not exceeding ten days, subject to renewal

once. The prohibition shall not apply to counsel for the accused, who may communicate with his client at any time he wishes without constraint or supervision.

Article (104)

If the accused invokes a plea of non-competence, non-admissibility or extinction of the case, the plea must be presented to the Attorney General or one of his assistants to rule thereon within twenty-four hours by means of a decision amenable to appeal before the court of first instance.

Article (105)

The interrogation must be conducted within twenty-four hours from the date the accused is sent to the deputy prosecutor, who shall order his detention or release.

Chapter VI

Writs of Summons and of Attachment

Article (106)

1. The deputy prosecutor is entitled to issue a writ of summons ordering the accused to appear and submit to an investigation.

2. If the accused does not appear, or if it is feared that he will flee, the deputy prosecutor may issue a writ of attachment ordering the accused to be brought by force.

Article (107)

1. The warden of the house of detention must deliver the accused within twenty-four hours to the Public Prosecution for the investigation.

2. The deputy prosecutor shall immediately interrogate an accused against whom a writ of summons has been issued. As to an accused against whom a writ of attachment was issued, the deputy prosecutor must interrogate him within twenty-four hours from the date of his arrest.

Article (108)

The deputy prosecutor may, after interrogating the accused, detain him for a period of forty-eight hours. The period is extended by the court in accordance with law.

Article (109)

1. Writs of summons and of attachment are executed immediately and remain in full force and effect until they are executed.

2. A writ of attachment may not be executed after the lapse of three months from the date it was issued, unless its extension for an additional period is ratified by the person who issued it.

Article (110)

Writs of summons, attachment and detention are signed by the legally competent authority, stamped with its official seal and include the following:

1. The surname, given names and description of the accused whose attachment is required.

2. The crime with which he is charged and the applicable articles of the law.

3. His address in full and the period of detention, if any.

Article (111)

Pursuant to the provisions of law:

1. The judicial officer undertakes to execute writs of summons and of attachment.

2. The judicial officer may execute writs of attachment by force if necessary.

Article (112)

1. The officer charged with the execution of the writ is held to inform the person he is arresting of its contents and to allow him to read it.

2. The officer charged with the execution of the writ may, when necessary, forcibly enter any place in which he has serious grounds to believe that the person against whom the writ was issued is present.

Article (113)

Writs of attachment are executory throughout Palestine at any hour of the day or night.

Article (114)

If the health condition of the accused does not allow for his attachment, the deputy prosecutor conducts the investigation at his domicile and may order him moved to hospital for treatment when necessary, while placing him under guard if he decides to detain him.

Chapter VII

Custody and Provisional Detention

Article (115)

The judicial officer is held to deliver the arrestee promptly to the police station.

Article (116)

The officer in charge of the police station which receives the arrestee without a writ of attachment shall immediately investigate the reasons for the arrest.

Article (117)

1. The officer in charge of the police station is held to keep the arrestee in custody if it transpires that the arrestee:

    a) Committed a felony and escaped or tried to escape from the place of his detention.

    b) Committed a misdemeanour and has no known or established domicile in Palestine.

Article (118)

The deputy prosecutor conducts the interrogation of the arrestee after advising him of the arrest warrant pursuant to the provisions of article (105) hereof.

Article (119)

If the procedures of the investigation entail the detention of the arrestee for more than twenty-four hours, the deputy prosecutor may request the conciliation judge to extend the detention for a period not exceeding fifteen days.

Article (120)

1. The conciliation judge may, after hearing the statements of the representative of the Public Prosecution and the accused, release or detain the accused for a period of not more than fifteen days. He may renew his detention for other periods to an aggregate maximum of forty-five days.

2. No person may be detained for a period longer than that prescribed in para (1) above, unless an application for his detention is submitted by the Attorney General or one of his assistants to the court of first instance. In such case, the period of detention may not exceed forty-five days.

3. The Public Prosecution is held to present the accused before the expiry of the three-month period referred to in the two preceding paragraphs to the court competent to try him in order that it extend his detention for further periods until the trial is over.

4. The period of detention referred to in the three preceding paragraphs may under no circumstances exceed six months, otherwise the accused shall be released immediately, unless he is referred to the court that is competent to try him.

5. In all cases, an arrestee's detention may not continue for longer than the period of the penalty prescribed for the crime by reason of which he is detained.

Article (121)

A writ of detention may not be issued against any accused in his absence unless the judge is convinced, on the basis of medical evidence, that the accused cannot be brought before him by reason of illness.

Article (122)

When an accused is detained at a correctional and rehabilitation centre [a prison], a copy of the writ of detention must be delivered to the warden of the centre after he signs the original in acknowledgement of receipt.

Article (123)

Every detainee is entitled to contact his family and to consult with his counsel.

Article (124)

The warden of the correctional and rehabilitation centre [the prison] may not allow anyone to contact the detainee except with written authorization from the Public Prosecution. In such case, the warden must inscribe in the register of the centre the name of the person so authorized, the time of the meeting and the date and contents of the authorization, without prejudice to the right of the accused to communicate with his lawyer without the presence of a third party.

Article (125)

No person may be detained or confined except in a correctional and rehabilitation centre [a prison] and in the places of detention designated by law.

The warden of any such centre may not accept any person except pursuant to an order signed by the competent authority nor retain him beyond the period prescribed in the said order.

Article (126)

The Public Prosecution and the presidents of first instance and appellate courts may visit the correctional and rehabilitation centres [prisons] and places of detention lying within their jurisdictional limits to ensure that no inmate or detainee is being held illegally. To that end, they are entitled to access the registers of the centre, the arrest warrants and the detention writs and make copies thereof, as well as to contact any detainee or inmate and hear his complaints. The

directors and wardens of the centres are held to provide them with every assistance to obtain the information they demand.

Article (127)

Every detainee or inmate is entitled to present a written or oral complaint to the Public Prosecution through the director of the correctional and rehabilitation centre [the prison], who is held to accept the complaint and transmit it to the Public Prosecution after establishing it in a special register prepared for this purpose at the centre.

Article (128)

Every person who learns of a detainee or inmate being held illegally or in other than the place designated for his confinement is entitled to report the matter to the Attorney General or one of his assistants, who shall order an investigation and the release of the illegally held detainee or inmate and draw up minutes establishing same in order to take the necessary legal procedures.

Article (129)

Any detainee or inmate who is legally held in a correctional and rehabilitation centre [a prison] or in a place of detention must submit to identity check and fingerprinting procedures as well as to a physical examination for the purpose of recording distinguishing marks to establish his identity.

Chapter VIII

Release on Bail

Article (130)

An accused may not be released on bail until after he designates an elected domicile within the court's jurisdictional limits, unless his residence is located within such limits.

Article (131)

If the accused has not been arraigned, the application for his release on bail is presented to the judge authorized to sign a release order.

Article (132)

If the accused has been arraigned, the application for his release on bail is presented to the court seised of the trial.

Article (133)

The application for the release on bail of an accused who has been condemned and sentenced is presented to the court which rendered judgment against him, provided he has challenged such judgment at appeal.

Article (134)

A request to review an order issued on an application for a release on bail may be presented to the court which issued such order in the event of the discovery of new facts or the occurrence of change in the circumstances surrounding its issuance.

Article (135)

The order issued on an application for a release on bail may be appealed by the Public Prosecution, the detainee or the convicted party by means of an application presented to the court competent to take cognizance of the appeal.

Article (136)

An application may be submitted to the president of the Supreme Court to review any order issued pursuant to the foregoing articles.

Article (137)

In all cases, applications for release on bail shall not be looked into except in the presence of the deputy prosecutor and the accused or the sentenced party or his counsel.

Article (138)

The court to which an application for release on bail is presented may, after hearing the statements of both parties, decide to:

1. Grant a release on bail

2. Reject the release application

3. Reconsider the previous order issued by it.

Article (139)

1. Every person whose request for a release on bail is granted must sign a bail bond in the amount deemed adequate by the court. The bond is also signed by his sureties if the court so requires.

2. The court may allow the deposit of a cash insurance in the value of the bail bond in place of sureties. The insurance is deemed a guarantee for the performance of the conditions of the bail bond.

Article (140)

The court may, if it deems that the financial standing of the accused will not allow him to post bail, replace bail with an obligation on the accused to present himself to the police station at the times it prescribes in the release order, with due regard to his circumstances. The court may also ask him to choose a place of abode other than the place in which he committed the crime.

Article (141)

The prerogatives of the court competent to review or take cognizance of appeals of applications for release on bail include:

1. Granting release on bail.

2. Cancelling the order of release on bail and re-detaining the accused.

3. Amending the former order.

Article (142)

The surety may present an application to the court before which he made out a bail bond requesting its nullification in its entirety or in that part of it which relates to him alone.

Article (143)

When reviewing the application presented by the surety, the court may:

1. Nullify the bond entirely or as relates to the surety alone.

2. Order the re-detention of the accused if he does not present another surety or a cash bail in the amount determined by the court.

Article (144)

When the release order is issued, the person responsible for the detention and the director of the correctional and rehabilitation centre [the prison] are held to discharge the detainee or inmate, save when he is confined or detained for another reason.

Article (145)

If a decision is issued *in absentia* against a fugitive, he may not be released on bail after he is arrested.

Article (146)

Bail is deemed a guarantee that the accused will appear when summoned and that he will not evade execution of the sentence that may be passed against him.

Article (147)

1. In the event of a breach of the conditions set forth in the bail or surety bond, the competent court is entitled to:
   a) Issue a writ of attachment against the person released or order his redetention.
   b) Exact payment discharge of the value of the bail or surety bond if it has not been deposited.
   c) Confiscate, amend or grant an exemption from the cash insurance.
2. The injured party is entitled to appeal the decision issued pursuant to the provisions of para (1) above.

Article (148)

If the surety dies before the amount of the bail is confiscated or discharged, his estate is released of all obligations related to the bail and the court may order the redetention of the accused unless he presents another surety or a cash bail in the amount it determines.

Chapter IX

Conclusion of the Investigation and Action on the Case

Article (149)

1. If, after the investigation is over, the deputy prosecutor is of the opinion that the act is not punishable by law, that the action has lapsed by prescription, death, general amnesty or because the accused was previously tried for the same crime or is not penally liable by reason of his youth or mental illness, or that the circumstances of the case entail that it be dismissed for lack of importance, he sends a memorandum with his opinion to the Public Prosecution for further action.
2. If the Attorney General or one of his assistants finds that the opinion of the deputy prosecutor is valid, he issues a reasoned decision to dismiss the case and orders the release of the accused if he is detained.

3. If the decision to dismiss the case is predicated on the lack of criminal liability on the part of the accused by reason of his mental illness, the Public Prosecution may contact the competent authorities to treat him.

Article (150)

If the deputy prosecutor finds that the act constitutes a contravention, he is held to refer the file of the case to the court competent to try the accused.

Article (151)

If the deputy prosecutor finds that the act constitutes a misdemeanour, he charges the accused and sends the file of the case to the court competent to try him.

Article (152)

1. If the deputy prosecutor finds that the act constitutes a felony, he charges the accused and sends the file of the case to the Attorney General or one of his assistants.
2. If the Attorney General or one of his assistants sees the need for further investigations, he returns the file of the case to the deputy prosecutor to conduct such investigations.
3. If the Attorney General or one of his assistants finds the charging instrument to be well founded, he orders the accused transferred to the competent court.
4. If the Attorney General or one of his assistants finds that the act does not constitute a felony, he orders the qualification of the charge to be amended and returns the file of the case to the deputy prosecutor for presentation to the competent court.
5. If the Attorney General or one of his assistants finds that the act is not punishable by law, that the case has lapsed by prescription, general amnesty or because the accused was previously tried for the same crime or is not penally liable by reason of his youth or mental illness, because of lack of evidence, because the perpetrator is not known or because circumstances entail that the case be dismissed for lack of importance, he issues an order to that effect.
6. If the Public Prosecution issues an order to dismiss the case, it is held to notify such order to the victim and the civil claimant. If one of them is deceased, the order is notified to his heirs at their domicile.

Article (153)

1. The civil claimant may protest against the decision to dismiss the case by means of an application submitted to the Attorney General.
2. The Attorney General rules on the application within one month from the date of its submission by means of a final decision.

3. The civil claimant may appeal the decision of the Attorney General before the court competent to review the case and the decision of such court shall be final. If the court cancels the decision, the merits of the case must be reviewed before another tribunal.

Article (154)

The decision to refer the accused to trial must include the name of the complainant and the name, age, place of birth, address and occupation of the accused, the date he was remanded in custody, a brief account of the act imputed to him, the date of its commission, its nature, legal qualification, the articles of law on which the charge is based and proof of the commission of the crime.

Article (155)

Without prejudice to the provisions of article (149) of this law, the Attorney General may cancel the decision to dismiss the case in the event new evidence comes to light or the perpetrator comes to be known.

Article (156)

New evidence includes the testimony of witnesses the prosecution was unable to summon and hear at the time and documents and minutes that were not examined, if their examination is conducive to strengthening the evidence which was found to be insufficient at the time of the investigation or to shedding new light on the facts useful to the manifestation of the truth.

Article (157)

Crimes are concurrent in one of the following cases:

1. If they are committed at one time by several people jointly.
2. If they are committed by several people at different times and places on the basis of an agreement between them.
3. If some are committed in preparation for others or preliminary to their commission or completion, or to ensure that the accused remains unpunished.
4. If several people participate in concealing all or some of the objects stolen or embezzled or acquired by means of a felony or misdemeanour.

Article (158)

If some of the concurrent crimes are misdemeanours and some are felonies, the case in its entirety is referred by the Attorney General to the court that is competent to try the more serious crime.

Chapter X

Abstention and Recusal of Judges

Article (159)

The judge abstains from participating in the review of a case if the crime was committed against him personally or if he performed the function of a judicial officer or a public prosecutor in the case, acted as defense counsel for one of the parties, took an oath in the case or was commissioned as an expert. He also abstains from participating in the judgment if he carried out any of the acts of the investigation or referral, and in the appellate judgment if the judgment under appeal was issued by him.

Article (160)

The parties may demand the recusal of the judges in the cases referred to in the preceding article, as well as in all the cases entailing recusal under the Law of Civil Procedure. Members of the Public Prosecution or judicial officers may not be recused and the accused is deemed, in respect of the recusal demand, to be an adversary party in the case.

Article (161)

A judge in whom any of the reasons for recusal is present is held to make this known to the court so that it may decide on the matter of his removal in the deliberation chamber. In other than the statutorily prescribed cases of recusal, the judge may, if he has reason to feel awkward exercising jurisdiction over a case, submit the question of his abstention to the court or to its president, as the case may be, to issue a decision thereon.

Article (162)

Without prejudice to the foregoing provisions, the provisions and procedures prescribed in the Law of Civil Procedure apply in respect of the recusal or abstention of the judge.

Book Two

The Trial

Part One

(Jurisdiction of Court)

Chapter I

In Penal Matters

Article (163)

Jurisdiction is determined by the place in which the crime occurred, in which the accused is domiciled or in which he is arrested.

Article (164)

In case of intent, the crime is deemed to have occurred wherever an act commencing execution of the crime takes place. In the case of continuous crimes, the place of the crime is deemed every place in which the condition of continuity comes into being.

In habitual and consecutive crimes, the place of the crime is deemed every location in which one of the acts coming thereunder occurs.

Article (165)

If one of the crimes to which the provisions of Palestinian law are applicable occurs abroad and its perpetrator has no place of abode in Palestine and was not apprehended therein, the case shall be brought against him before the competent court in the capital, Jerusalem.

Article (166)

If an act of which part falls within the scope of jurisdiction of the Palestinian courts and part outside such jurisdiction is committed, and the act constitutes a crime to which the provisions of the Palestinian Penal Law would apply if the act in its entirety were committed within the scope of jurisdiction of the Palestinian courts, every person who commits any part of such act within the scope of jurisdiction of the Palestinian courts may be tried in accordance with the provisions of the Palestinian Penal Law as though he committed the entire act within the jurisdiction of such courts.

Article (167)

The conciliation courts are seised of all contraventions and misdemeanours coming under the scope of their jurisdiction, save as otherwise prescribed by law.

Article (168)

1. The courts of first instance are seised of all felonies as well as all misdemeanours concurrent therewith and referred to them by means of a charging instrument.

2. If one act constitutes several crimes, or if several crimes are committed with one object and are so connected as to be indivisible, and one of those crimes comes under the jurisdiction of the court of first instance, such court shall be competent to review them all.

Article (169)

1. If the court of first instance finds that the incident as described in the charging instrument, and before examining it at the session, is a misdemeanour, it pronounces its lack of jurisdiction and refers it to the conciliation court.

2. If the conciliation court finds that the crime presented before it comes under the jurisdiction of the court of first instance, it pronounces its lack of jurisdiction and refers it to the Public Prosecution to take such action as it deems fit.

Chapter II

In Civil Matters

Article (170)

Without prejudice to the provisions of article (196) of this law, the penal court reviews actions brought to enforce a civil right and awards damages for the injury arising from the crime, however great the value of such damages. It reviews the civil claim as an ancillary of the penal action.

Article (171)

The court is competent to adjudicate all matters on which a ruling on the penal action brought before it depends, save as otherwise prescribed by law.

Article (172)

If a ruling on the penal action depends on the result of the ruling on another penal action, the first action must be suspended until the second has been adjudicated.

Article (173)

If the ruling on a penal action depends on the ruling on a Personal Status matter, the penal court may suspend the action and grant the civil claimant or the injured party a grace period in which to institute an action in such matter before the competent court. This shall not prevent conservatory and summary procedures from being taken.

Chapter III

Conflict of Jurisdiction

Article (174)

If a crime occurs and two courts proceed to look into it on the grounds that both are vested with jurisdiction thereover, or if both decide that they are not competent to review it, or if a court decides that it is not qualified to review a case referred to it by the Public Prosecution, and this gives rise to a dispute over jurisdiction which impedes the course of justice as a result of the issuance of two contradictory decisions on the same case, the dispute must be resolved by designating the competent court.

Article (175)

All parties in the case may demand the designation of the competent court in a summons presented to the Court of Cassation together with the document supporting the summons. If the

demand relates to a dispute over which two conciliation courts belonging to one first instance court is better qualified than the other, the summons shall be presented to such court.

Article (176)

If the demand for the designation of the competent court is made by the civil claimant or the civil defendant, the president of the court to which the demand is presented orders a copy thereof to be notified to the adverse party, and the Public Prosecution undertakes to serve a copy of the demand to each of the courts between which the dispute has arisen to express its opinion thereon.

Article (177)

The Public Prosecution, the accused or the civil claimant must express an opinion on the demand for the designation of the competent court within one week of being notified thereof.

Article (178)

If courts decide that they are qualified to review a case and are informed of the demand for the designation of the competent court, they must halt all procedures of the trial or the rendition of judgment until the competent court has been designated.

Article (179)

If a dispute over jurisdiction arises as a result of the rendition of two judgments in one case, execution of both judgments is stayed until the decision designating the competent court is issued.

Article (180)

If the civil claimant or the accused was not entitled to demand the designation of the competent court, the court to which the demand was presented may sentence him to a fine of not more than fifty Jordanian dinars or their equivalent in legal tender or award damages to the adverse party at such party's request.

Article (181)

The court looks into the demand presented to it in detail and, after consulting the Attorney General, issues a decision designating the competent court and rules on whether the procedures taken by the court which pronounced its lack of jurisdiction were valid or not.

Chapter IV

Transferal of the Case to Another Court of the Same Rank

Article (182)

The competent court of appeal may, in felony and misdemeanour cases, decide, on the basis of a request by the Attorney General, to transfer the case to another court of the same rank when its review in the circuit of the competent court could lead to a breach of public security.

Article (183)

The court of appeal carefully considers the request for a transfer of the case and, if it decides to transfer it, indicates in the same decision the validity of the procedures taken by the court from which it was decided to transfer the case.

Article (184)

Denial of a request for the transfer of a case shall not prevent the presentation of a new request for its transfer based on new reasons which appeared after its denial.

Part Two

Trial Procedures

Chapter I

Service of Judicial Instruments

[Notification of Parties]

Article (185)

Judicial instruments are served by a process-server or a policeman on the person required to be notified or at his domicile, in accordance with the rules prescribed in the Law of Civil Procedure, without prejudice to the special provisions set forth in the present law.

Article (186)

Subpoenas to appear in court are served on the parties one full day before the scheduled session in contraventions, and at least three days before it convenes in misdemeanours, with due regard to considerations of distance.

Article (187)

Notices to detainees and prisoners are served by the warden of the correctional and rehabilitation centre [the prison] or by his deputy and to officers and soldiers by their command.

Article (188)

The parties are entitled to see the documents of the case as soon as they are subpoenaed to appear before the competent court.

Chapter II

Maintaining Order During the Proceeding

Article (189)

1. The orderly progress and administration of a session is the responsibility of its president.

2. If a person present during the convocation of the session displays a sign of approval or protest, causes noise in any way, or otherwise disrupts the orderly progress of the session, the judge orders him evicted from the court.

3. If he refuses to comply or returns after his eviction, the president sentences him to imprisonment for a term of not more than three days. The sentence is mandatory.

4. If the disruption occurs from someone who performs a function in court, the president may impose such disciplinary penalty on him during the session as his superior is entitled to inflict.

5. The court may, before the end of the session, retract the sentence it has passed.

Article (190)

1. If a person commits a misdemeanour or contravention during the session, and the court exercises jurisdiction over such crime, it may try him on the spot and, after hearing the statement of the representative of the Public Prosecution and the defense of the person in question, sentence him to the penalty prescribed by law. Its judgment is amenable to the forms of challenge to which all the judgments it renders are subject.

2. If the crime lies outside the court's jurisdiction, it transcribes minutes of the incident and transfers the accused under custody to the Public Prosecution.

3. The trial of the accused in this case is not conditioned on a complaint, requisition or civil claim if the crime is of the sort whose prosecution is conditioned by law on meeting such requirement.

Article (191)

If the crime is a felony, the president of the court has minutes of the incident transcribed and orders the accused to be transferred under custody to the Public Prosecution to take the required legal action.

Article (192)

Crimes committed during a court session in respect of which the court does not pass judgment on the spot are reviewed pursuant to general rules.

Article (193)

If, during or by reason of the performance of his duty, counsel for one of the parties commits an act which renders him criminally liable or which may be qualified as disruptive of order, the president of the court has minutes recording the incident transcribed. The court may decide to send the minutes to the Attorney General to conduct an investigation if the act gives rise to criminal liability or to the president of the Bar Association if it gives rise to civil liability. Neither the president nor the members of the session at which the incident occurred may serve as members of the court seised of the case.

Chapter III

Action for Recovery of Civil Right

Article (194)

1. Every person injured by a crime is entitled to submit an application to the deputy prosecutor or to the court seised of the case in which he expressly assumes the capacity of a civil claimant moving for the reparation of the injury he suffered as a result of the crime.

2. The application must be sufficiently reasoned and supported by facts and evidence.

Article (195)

1. The action for the recovery of a civil right may be instituted as an ancillary to the penal action before the competent court. It may also be instituted separately before the civil court, in which case proceedings in the action conducted before the civil court are suspended until final judgment is rendered on the penal action, unless judgment on the penal action has been suspended due to the insanity of the accused.

2. If the civil claimant institutes an action before the civil judiciary he may not thereafter institute it before the penal judiciary unless he has abandoned his action before the civil court.

Article (196)

1. Claims for the recovery of a civil right may be raised before the court of first instance at any stage of the penal action and until the close of pleadings.

2. Claims for the recovery of a civil right may not be raised if the case is returned to the court of first instance for any reason whatsoever.

3. A civil claim may not delay pronouncement of judgment in the penal action, otherwise the court orders it inadmissible.

Article (197)

The civil claimant may withdraw his claim at any stage of the proceedings without such withdrawal having any effect on the penal action.

Article (198)

The civil claimant is held to pay the judicial fees and expenses necessary for the action unless the court decides to exempt him therefrom or to postpone payment thereof.

Article (199)

If the Public Prosecution decides to dismiss the charge or the court decides to acquit the accused, the civil claimant may be exempted from or reimbursed for the fees and expenses.

Article (200)

In the event a decision to dismiss the charge is issued or a judgment of acquittal is rendered, the accused may claim damages from the civil claimant before the competent court, unless the civil claimant is of good faith.

Article (201)

The competent court may, at the request of the Public Prosecution, appoint an attorney for an injured party devoid of or with diminished capacity if he has no legal representative to claim recovery of a civil right on his behalf. This shall not entail charging him with judicial expenses.

Article (202)

The civil claimant must take an elected domicile within the jurisdictional limits of the court before which his action was instituted, unless he lives within such limits, for purposes of service of process.

Article (203)

If the civil action is brought before the civil courts, judgment thereon must be suspended until a final judgment is rendered on the penal action that was instituted either before it was filed or during its pendency, unless proceedings in the penal action were suspended by reason of the insanity of the accused.

Article (204)

The accused may protest during the trial session against the admission of the civil claimant if the civil claim is unwarranted or inadmissible.

Chapter IV

Evidence

Article (205)

In passing judgment, the judge may not rely on his personal knowledge.

Article (206)

1. Evidence is established in penal actions by all measures of proof-taking, unless the law specifies a particular measure.

2. If evidence is not established against the accused, the court acquits him.

Article (207)

The judgment shall not be predicated except on the evidence presented during the trial and openly discussed at the session in the presence of the parties.

Article (208)

While the case is in progress, the court may, at the request of the parties or *sua sponte*, order the presentation of any proof it deems necessary for a manifestation of the truth and may hear the testimony of any person who appears voluntarily to offer information on the case.

Article (209)

An accused shall not be condemned on the basis of the testimony of another accused, unless such testimony is substantiated by evidence that is convincing to the court. The accused against whom another accused has testified may discuss with such other accused the testimony he presented.

Article (210)

1. The court is held to apply the provisions of the Law of Evidence in Civil and Commercial Matters to actions for the recovery of a civil right brought before it as an ancillary of the penal action.

2. In its review of a civil action, the court shall apply, in respect of procedure, the rules laid down in the said law.

Article (211)

No fact may be evidenced by means of the correspondence exchanged or the conversations held between the accused and his counsel.

Article (212)

The minutes drawn up by judicial officers in misdemeanours and contraventions which they are statutorily charged with evidencing are deemed conclusive in respect of the facts established therein, unless evidence emerges to refute such facts.

Article (213)

For the minutes to have probative force, they must fulfill the following conditions:

1. They must comply with formal requirements.

2. They must be transcribed by the person who investigated the incident himself or who was personally notified thereof.

3. The person who transcribed them must have acted within the limits of his authority and in the performance of the functions of his post.

Article (214)

For a confession to be valid, it must fulfill the following conditions:

1. It must be made voluntarily and freely, without material or moral pressure or coercion, promise or threat.

2. It must correspond to the circumstances of the incident.

3. It must be an express and conclusive acknowledgment by the accused that he committed the crime.

Article (215)

Confession is a measure of proof-taking that is subject to the discretion of the court.

Article (216)

The probative force of the confession is limited to the accused who made it and to none other, without prejudice to the provisions of article (215) hereof.

Article (217)

The accused has the right to remain silent, and his silence or refusal to answer shall not be construed as a confession.

Article (218)

The accused may not be punished for untrue statements he made in self-defense.

Article (219)

Admissible measures of proof-taking during the investigation or the trial are fingerprints, palmprints and footprints. Photographs may also be admitted as a means of recognizing their subject in order to identify the accused and any person connected to the crime.

Article (220)

Among the admissible measures of proof-taking in penal actions are all the reports issued by or officially approved and signed by the employee responsible for government laboratories, and which include the results of the chemical tests or analyses he conducted himself on any suspicious substance. This does not entail summoning him to take an oath in this regard, unless the court deems his appearance necessary to guarantee the proper course of justice.

Article (221)

The ascendants and descendants of the accused, as well as his relatives by blood or marriage up to the second degree and his spouse or former spouse may refuse to testify against him, unless the crime was committed against any one of them.

Article (222)

If the ascendants, descendants or spouse of the accused are invited to testify in his defense, their testimony – whether delivered in the interrogation or during the discussion with the Public Prosecution – may be relied on to establish the crime imputed to the accused.

Article (223)

The testimony of an informant who was present at the time the crime occurred or just before or shortly after its commission is admissible if his testimony is directly connected to the crime or to any incident related thereto and when the informant is a witness in the case.

Article (224)

1. When the informant is the injured party, his testimony is admissible if it is related to the act, if he reported the act to the authorities during or shortly after its occurrence or as soon as the opportunity presented itself or if he is on his death bed.

2. The non-appearance of the informant as a witness in the case, or his inability to attend the trial session due to his absence from Palestine does not render his testimony inadmissible.

Article (225)

1. Before testifying, the witness takes the oath in the following form: "I swear by Almighty God to tell the truth, the whole truth, and nothing but the truth."

2. The provisions of article (90) of this law are applicable if the witness is a man of religion.

3. If the court is persuaded that swearing a witness in would violate his religious convictions, it may transcribe his testimony after he gives an assurance that he will tell the truth.

Article (226)

1. Persons below the age of fifteen may be heard for information only, without taking the oath.

2. A statement taken for information only is not sufficient in itself to establish guilt unless it is substantiated by other evidence.

Article (227)

The statement made by the accused to judicial officers in which he confesses to the crime is admissible if the Public Prosecution presents proof of the circumstances in which it was made and the court is convinced that it was made voluntarily and freely.

Article (228)

The civil claimant is heard as a witness after taking the oath.

Article (229)

1. The court may decide to have the testimony given under oath in the preliminary investigation read out if the witness cannot be brought before it for any reason, or if the accused or his attorney so accept.

2. If the accused cannot be brought before the court because of his disability or illness, the court may visit him to hear his testimony.

3. If the witness referred to in the preceding paragraph is domiciled within the jurisdictional limits of another court, the competent court issues a rogatory commission to such other court to hear his testimony.

4. If the court discovers the excuse mentioned in the two preceding paras to be false, it may refer the witness to the Public Prosecution to take the required legal procedures.

Article (230)

If the witness declares that he does not recall a specific fact, the part relating to such fact in his testimony during the investigation or in the evidence-gathering minutes may be read out to him.

This provision also applies in the event the testimony given by the witness in the session contradicts his previous testimony or statement.

Article (231)

If the witness is properly notified and does not appear at the designated time to testify, the court issues a writ of summons or attachment against him and may sentence him to a fine of fifteen Jordanian dinars or their equivalent in legal tender.

Article (232)

If the witness sentenced to a fine appears during or after the trial and furnishes an acceptable excuse, the court may relieve him of the fine.

Article (233)

If the witness refuses without legal justification to take the oath or to answer the questions directed at him by the court, the court may sentence him to imprisonment for a term of not more than one month. If, during his incarceration in the correctional and rehabilitation centre [the prison] and before the close of proceedings, he agrees to take the oath and to answer the questions addressed to him, he is released promptly upon so doing.

Article (234)

1. The court assesses the value of the testimony given by witnesses and may mention their behaviour and comportment in the minutes.

2. If the testimony does not correspond to the case or if the statements of witnesses contradict one another, the court considers only that part thereof which it is convinced is true.

Article (235)

The witness delivers the oath orally and may not avail himself of memoranda except with the permission of the president of the court.

Article (236)

Witnesses may not be recused for any reason whatsoever.

Chapter V

Trial Procedures
Before First Instance Courts

Article (237)

The trial is public unless the court decides to conduct it in closed session for considerations of public policy or morality. In all cases, the court may bar minors or other categories of persons from attending the trial.

Article (238)

1. The president conducts the trial and takes all measures as are necessary for its proper administration.

2. The hearings of the court of first instance are attended by the deputy prosecutor and the clerk.

Article (239)

The deputy prosecutor reads out the charges to the accused indicted for the crimes set out in the charging instrument, and may not, on pain of nullity, allege acts that are not cited in the charging instrument.

Article (240)

No person shall be presented for trial in a penal action unless a charging instrument is made out against him by the Attorney General or the person acting in his stead.

Article (241)

The charging instrument must include the name of the accused, the date he was apprehended, the nature and legal qualification of the crime committed, the date of its commission, a detailed account of the charge and the circumstances in which it was made, the articles of law applicable thereto, the name of the victim and the names of the witnesses.

Article (242)

The clerk of court undertakes to serve a copy of the charging instrument on the accused at least one week before the date of the trial, subject to extension to accommodate factors of distance.

Article (243)

The accused appears at the trial free from restraint or chains; he shall, however, be kept under sufficient guard. The accused may not be excluded from the session while the case is in progress unless he creates a disturbance entailing his exclusion. In such case, proceedings will continue until they can be conducted in his presence. The court is held to inform him of all the procedures taken in his absence.

Article (244)

The court asks the accused if he has chosen a defense counsel and, if he has not done so because of the paucity of his financial resources, the president of the court appoints one for him from among the lawyers who have practiced at the bar for at least five years or who, before being admitted to the bar, worked in the Public Prosecution or in the judiciary for not less than two years.

Article (245)

The court determines the fees of the counsel appointed pursuant to the preceding article and disburses them from the court registry.

Article (246)

1. The court asks the accused his surname, given names, occupation, place of birth, age, place of abode and marital status.

2. The court cautions the accused to listen attentively to all that is read out to him and orders the deputy prosecutor to read out the accusation and the charging instrument.

Article (247)

If the accused does not appear in court on the date and at the time designated in the writ of summons, he is renotified and, if he again fails to appear, a writ of attachment is issued against him.

Article (248)

If separate charging instruments are issued against the perpetrators of one crime or against some of them, the court may decide to join the cases, either *sua sponte* or at the request of the representative of the Public Prosecution or of the defense.

Article (249)

If the court determines, at any stage of a trial for crimes which are not concurrent, that it would be appropriate to try the accused on each count or more of the counts imputed to him, it may order that he be tried separately on each of the counts listed in the charging instrument.

Article (250)

Without prejudice to the provisions of articles (214) and (215) hereof:

1. After the deputy prosecutor reads the charge out to the accused in simple language that he is capable of understanding, and after the civil claimant explains his demands, the court asks the accused to answer the charge imputed to him and the civil claim.

2. If the accused confesses that he has committed the crime, his confession is recorded in wording as close as possible to the wording he used in confessing to the crime.

3. If the accused denies the charge, refuses to answer or remains silent, the court proceeds to hear the evidence.

Article (251)

The court may, at any stage of the proceeding, direct any question to the parties as it deems necessary for revealing the truth or permit the parties to do so. It is held to forbid directing questions at the witness that are not related to the case, and to hold the witness harmless against any explicit or implicit talk or any reference that could confuse or alarm him. The court may refuse to hear the testimony of witnesses in respect of facts it deems sufficiently clear.

Article (252)

1. The court may prevent the accused or his counsel from indulging in prolixity if he digresses from the subject of the case or makes redundant statements in his pleading.

2. The court may direct the deputy prosecutor and defense counsel to submit written pleadings within the period it prescribes. On the prescribed date, the pleadings are read out and joined to the minutes after being signed by the panel of judges.

Article (253)

The clerk records all the facts of the trial in the minutes which are signed by the panel of judges.

Article (254)

1. The Prosecution may not call any person to testify whose name is not included in the list of witnesses unless the accused or his counsel were notified of the name of such witness or waived the right to be so notified.

2. An accomplice in the charge who was previously acquitted or condemned is exempt from the condition of notification referred to in para (1) above, as is any person summoned to prove that a witness whose testimony was heard in the preliminary investigation was unable to appear in court by reason of his death, illness or absence from Palestine.

Article (255)

The court takes measures to prevent the witnesses from conferring during the trial and administers the oath to each witness separately.

Article (256)

1. The court asks the witness his name, given names, age, occupation, domicile or residence and his connection to the victim. The witness takes the oath and delivers his testimony orally.

2. The adverse parties are entitled to question the witness on his testimony.

Article (257)

The court shall, at the request of the witnesses, estimate the expenses to which they are entitled by reason of their appearance to testify, and shall disburse same from its registry.

Article (258)

1. After hearing the statements of the Public Prosecution, the court asks the accused if he wishes to make a statement and to call witnesses. If he chooses to make a statement, the deputy prosecutor may question him thereon, and if he expresses a wish to present evidence in his defense, the court shall hear it.

2. The court calls defense witnesses at the expense of the accused, unless it decides otherwise.

Article (259)

No question may be addressed to the accused in the aim of establishing his guilt for a previous crime, unless he voluntarily delivers a statement on his past history.

Article (260)

The court may, *sua sponte* and at any stage of the trial, order any person to retestify or order a rehearing of the statements made by any witness who previously testified before it.

Article (261)

If it appears during the trial that the testimony given by a witness under oath in respect of a fact related to the case substantively contradicts his testimony in the preliminary investigation, he is deemed guilty of perjury and the court may condemn him for such crime and, in the light of the circumstances of the case, sentence him to the penalty prescribed therefor.

Article (262)

The witness is not allowed to leave the courtroom without permission from the judge.

Article (263)

The civil claimant may question any witness for the prosecution or the defense in connection with his claim, and may present his evidence after the prosecution presents its evidence or at any time thereafter during the trial as the court orders. However, he may not present evidence or

address the court in connection with the culpability of the accused nor question or enter into a discussion with any witness for the prosecution in this connection except with the court's permission.

Article (264)

1. In case the accused, the witnesses or any one of them does not speak the Arabic language, the president of the court appoints a licensed interpreter who takes an oath to translate the statements conscientiously and honestly.

2. Non-compliance with the provisions of the preceding paragraph entails the nullity of the procedures.

Article (265)

Pursuant to the provisions of law, the accused and the deputy prosecutor may demand the recusal of the interpreter, provided they give reasons for their demand, and the court shall rule on the matter.

Article (266)

The interpreter may not, even with the consent of the accused or of the deputy prosecutor, be chosen from among the witnesses or the members of the court seised of the case.

Article (267)

If the accused or the witness is a deaf-mute and does not know how to write, the president of the court appoints as interpreter the person who is most accustomed to communicating with him or with others like him through sign language or other technical methods.

Article (268)

In case the deaf-mute knows how to write, the court clerk writes down the questions or observations and hands them to him and he shall give his answers thereto in writing. The whole is then read aloud by the clerk and joined to the minutes.

Article (269)

1. If the court establishes that while committing the crime imputed to him the accused was affected by a disease which impaired his mental faculties and rendered him incapable of comprehending his actions or of realizing that he is prohibited from committing the act constituting the crime, the court rules that he is not penally liable.

2. If the court establishes during the trial that the accused is mentally deranged or demented to a degree that prevents him from standing trial, it issues a decision to place him in a mental institution for the period it deems necessary to observe him.

3. If it is established as a result of such observation that the accused is of sound mind pursuant to a certificate from two specialized government doctors, the court proceeds with his trial or else orders him placed in a mental hospital.

4. The provisions of this article are applicable before the penal courts.

Article (270)

The court may amend the charge provided such amendment is not predicated on facts not included in the evidence presented. If the amendment exposes the accused to a severer penalty, the case is adjourned for the period the court considers necessary to enable the accused to prepare his defense for the amended charge.

Article (271)

After the evidence has been heard, the deputy prosecutor delivers his pleading then the civil claimant cites his claims and the accused and the party liable to make civil reparation deliver their defenses, after which the trial closes. In all cases, the accused must be the last to speak.

Chapter VI

The Judgment

Article (272)

After the close of the trial, the court retires to the deliberation chamber and conducts a detailed examination of the allegations made before it. The judgment is handed down unanimously or by majority vote, except when it imposes the death penalty, in which case it must be rendered by unanimous opinion.

Article (273)

1. The court rules on the case according to the inner certainty it forms in complete freedom. It may not predicate its judgment on any proof not presented to it in session or that was obtained in an illegal manner.

2. In the event it is established that a statement made by one of the accused or one of the witnesses was obtained by coercion or under threat, such statement is disregarded and not held against him.

The judgment is rendered at an open session, even if the case was heard *in camera*.

Article (274)

1. The court shall acquit the accused for lack or insufficiency of evidence, for absence of liability, if the act does not constitute a crime or if it does not entail a penal sanction.

2. The court shall pronounce a judgment of conviction when the accused has been proved guilty of an act punishable by law.

Article (275)

If the court decides to convict, it hears the statements of the deputy prosecutor and the civil claimant followed by those of the accused and his counsel and then pronounces sentence and awards civil damages.

Article (276)

The judgment includes a summary of the facts as established in the charging instrument and the trial, of the demands of the Public Prosecution and the civil claimant and of the defense of the accused, as well as the reasons entailing acquittal or conviction, the articles of law applicable to the act in the event of conviction, the determination of the penalty and the amount of civil damages.

Article (277)

The judgment is signed by the judges and read aloud in the presence of the deputy prosecutor and the accused. The president of the court advises the accused of his right to appeal the judgment within the statutory time-limit.

Article (278)

If the court acquits the accused, he is released immediately, unless he is detained for another reason.

Article (279)

The court may order an accused who is convicted of a crime – other than those for which it sentences him to the death penalty or life imprisonment – to pay the costs of the trial and the expenses arising therefrom.

Article (280)

A civil claimant who loses is liable for costs. Nevertheless, he may be exempted therefrom in whole or in part if he acted in good faith and if the penal action was not initiated on the basis of his complaint.

Article (281)

If the court decides that the act imputed to the accused does not constitute a felony but only a misdemeanour or contravention, it rules to amend the charge and pronounces judgment on the amended charge.

Article (282)

1. Following its rendition, the judgment is docketed in the court's judgment roll and the original of the judgment is kept with the documents of the case on which it was rendered.

2. The court sends a list of the judgments it renders to the Attorney General.

Article (283)

If a material error that does not entail nullity occurs in the judgment, the court which rendered such judgment undertakes to correct the error either *sua sponte* or at the request of the parties. The correction is made in the deliberation chamber. The court may also, at the request of the deputy prosecutor, correct any material errors in the charging instrument.

Chapter VII

Procedures for a Stay of Execution of the Penalty

Article (284)

The court may, when sentencing the accused in a felony or misdemeanour to a fine or to imprisonment for a term of not more than one year, rule in the same judgment to stay execution of the penalty if the character of the convicted person, his past record, his age, or the circumstances in which he committed the crime is conducive to the belief that he will not violate the law again. It must indicate in the judgment the reasons for the suspended sentence and the suspension may include any ancillary penalty and all penal effects arising from the sentence.

Article (285)

The order to stay execution of the penalty is issued for a period of three years running from the date on which the judgment becomes final. The stay of execution may be cancelled if:

1. The accused is sentenced during such period to imprisonment for a term of over one month for an act he committed either before or after the stay of execution order.

2. It transpires during such period that prior to the stay of execution order the sentence referred to in the preceding paragraph was pronounced against the accused and the court was not apprised thereof.

Article (286)

The order to cancel is issued by the same court which ordered a stay of execution at the request of the Public Prosecution after summoning the convicted party to appear. If the penalty on which the cancellation order is predicated was imposed after the stay of execution, the cancellation

order may be issued by the court which imposed such penalty, either *sua sponte* or at the request of the Public Prosecution.

Article (287)

Cancellation entails execution of the suspended sentence as well as of all ancillary penalties and penal effects that were suspended.

Chapter VIII

Trials of Fugitives

Article (288)

1. In the event the Attorney General prefers a felony charge against a person who has not been arrested and who does not turn himself in, an arrest warrant is issued against him.

2. After the documents of the case are referred to the deputy prosecutor, he issues a charging instrument, inclusive of the names of witnesses, and sends it to the last domicile of the accused for notification. He then refers the case to the court for trial.

3. On receiving the file of the case, the court is held to issue a decision granting the accused a grace period of ten days in which to surrender to the judicial authorities. The decision cites the type of felony, refers to the arrest warrant and enjoins all persons who know the fugitive's whereabouts to come forward with such information.

4. The decision granting a grace period is published in the Official Gazette or in a local newspaper. It is also affixed to the door of the accused's residence and posted on the court's bulletin board.

5. If the accused is unable to present himself for trial, his relatives or friends may furnish an excuse on his behalf together with proof of its legitimacy.

6. An accused who does not turn himself in during the grace period is deemed a fugitive from justice.

Article (289)