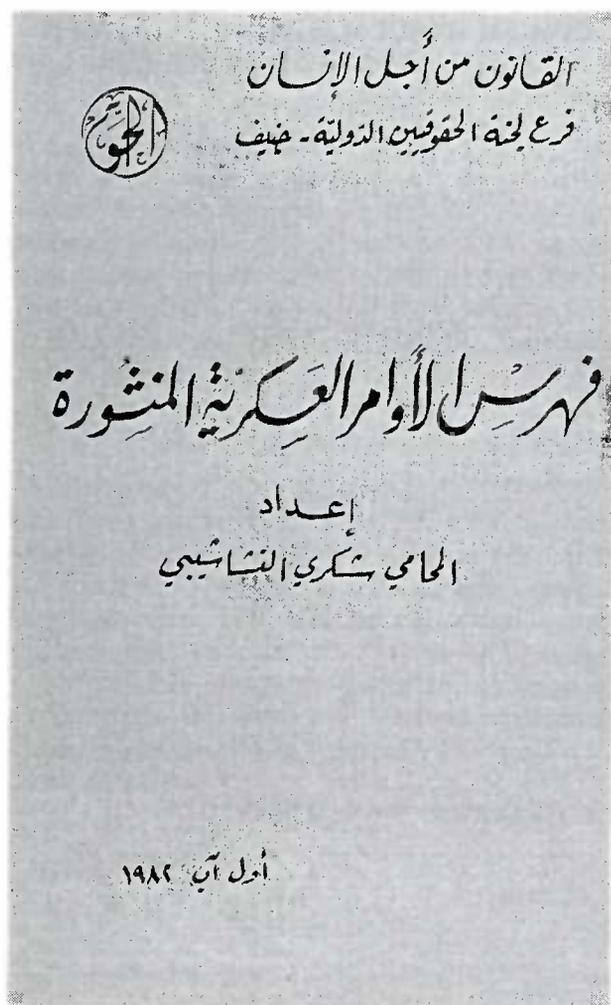


Palestine The legal background

A collection of sources published on microfiche from the collection of *Law in the Service of Man* Ramallah



Palestine: The legal background

Source materials on the legal position of the Occupied Territories in Israel are very difficult to find. Military Orders and Regulations issued by the Israeli Government especially are extremely rare, as they are not usually intended for free circulation.

The microfiche edition therefore provides a unique opportunity for studying the legal situation in these territories.

Introduction

The West Bank of the River Jordan and the Gaza Strip are areas occupied at present by Israel as a result of the June 1967 war. These territories have been subject to a number of different ruling authorities during the course of this century, and consequently the legal system is based on several different codes.

Centuries of Ottoman rule over Palestine came to an end in 1917, and in 1921 the British were given a Mandate over Palestine. Article 46 of the Palestine Order-in-Council stated that: "The jurisdiction of the Civil Courts shall be exercised in conformity with the Ottoman Laws in force in Palestine on 1st November 1914, and such later Ottoman Laws as have been or may be declared to be in force by Public Notice, and such Orders in Council, Ordinances and Regulations as are in force in Palestine at the date of the commencement of this Order, or may hereafter be applied or enacted ...". The British Mandate ended in 1948, and three years after the 1948 war Jordan annexed the West Bank. The Jordanian Constitution states: "All laws, regulations and legislative acts in force in the Hashemite Kingdom of Jordan at the date of the commencement of this Constitution shall remain in force until such time as they be repealed or modified by legislation issued for that purpose" (art. 128). Over the years from 1951 to 1967 so many laws, amendments, and modifications were passed that both Banks came in effect to be ruled by the one system of the Jordanian Law, which retained clear evidence of Ottoman and Mandate influence.

Jordanian rule lasted until the June 1967 war, when Israeli forces occupied the West Bank and Gaza Strip. On June 7th, 1967, the Israeli Military Government now in control of the West Bank assumed all legislative executive and administrative powers in the area, as stated in Proclamation Two of the Military Orders: "All laws that were in force in the Area on June 7th, 1967, shall continue to be in force as long as

A number of other sources - modern as well as historical - such as the Ottoman Laws and the *Palestine Gazette*, have been added so that the actual situation can be studied in its historical perspective. A number of indexes, compilations and English translations makes this collection a most useful instrument for scholarly and legal research.

they do not contradict this or any other Proclamation or Order made by the [the West Bank Area Commander], or conflict with the changes arising by virtue of the occupation by the Israeli Defence Forces of the Area". Jordanian Law in the West Bank Territory was thus frozen in its 1967 state.

Since 1967, as the occupying power, the Israeli authorities in the West Bank have issued more than 1,091 Military Orders and Regulations adding to or amending the Jordanian legislation that existed in 1967. These Military Orders and the Jordanian Law up to 1967, which included such Laws of Palestine and Ottoman Laws as were not repealed or modified under the British or Jordanian authorities, form the basis of the legal system in the West Bank.

The Gaza Strip is in a somewhat different situation. From 1948 to 1967, the law there remained the same combination of Ottoman and British-Mandate rules as amended by Egyptian Administrative Orders. No attempt was made to apply Egyptian Law directly to the Gaza Strip, and the law therefore remained essentially as it was under the British Mandate. Since the 1967 occupation, more than 800 Military Orders have been issued for Gaza, bringing about changes similar to those brought about in the West Bank.

Cover illustration left: *Fihris Al-Awāmīr Al-Askariya Al-Manshūra*. Index to Published Military Orders by Attorney Shukri al-Nashashibi. The Law in the Service of Man (Affiliate of the International Commission of Jurists, Geneva). Ramallah. August 1st, 1982.

Right: *Manāshīr Awāmīr Wata'yināt*. Proclamations, orders and appointment issued by the West Bank Area Command. 60 vols. Jerusalem, 1967-1983.

List of works selected for the microfiche project

23 titles on 1,313 microfiche (positive silver halide)

All titles can be purchased individually.

OTTOMAN LAWS

Al-dastur. Nuffel Effendi Nibnallah Napel. 2 vols.

In Arabic.

Arabic translation from the Turkish of the Constitution and Laws of the Ottoman Empire.

16 microfiche NE-1580/1

Majmū'at al-qawānīn. Arif Effendi Ramadan.

Beirut, 1925-1932. V.1-7.

In Arabic.

Compilation of the Ottoman Laws applicable to Palestine by virtue of the terms of Article 46 of the Palestine Order-in-Council, 1922.

35 microfiche NE-1581/1

The Civil Law of Palestine and Trans-Jordan.

C.A. Hooper.

Volume 1: Translation. Jerusalem, 1933.

Volume 2: Commentary.

In English.

A complete English version of the Ottoman Civil Code that became part of the law of Palestine by virtue of the terms of Article 46 of the Palestine Order-in-Council, 1922, and of Trans-Jordan by virtue of the terms of Article 58 of the Organic Law of April 16th, 1928. The second volume is a valuable commentary on the same. Although the Ottoman Civil Code remains part of the recognized law applicable to the West Bank, both volumes are out of print.

9 microfiche NE-1582/1

Ahkām al-arādī Da'ibis/al-Murr.

In Arabic.

5 microfiche NE-1583/1

The Ottoman Land Laws. R.C. Tute.

In English.

3 microfiche NE-1584/1

The first book supplies the complete Arabic text of the Ottoman Land code of 1858, still largely applicable in the West Bank with commentary, and the second provides a valuable English translation and commentary by the President of the Land Court in Jerusalem.

Collection of Ottoman Laws.

English translations of a number of Ottoman laws, including the Peace Judges' Law and the Ottoman Code of Civil Procedure.

2 microfiche NE-1602/1

LAWS ISSUED IN PALESTINE BY THE MANDATE AUTHORITIES

The Land Law of Palestine. F.M. Goadby and M.J. Doukhan.

In English.

The authors, both legal experts in the Government of Palestine, were commissioned by the latter in 1927 to prepare a Statement of the Land Law then in force. This book is a republication of the Statement in a more convenient form, complete with revisions, additions, and updates. Out of print and difficult to obtain, it is one of the very few English commentaries on the subject.

5 microfiche NE-1585/1

Official Gazette of the Government of Palestine: Palestine Gazette.

In English.

Legislative history of the area in the form of a compilation of the *Official Gazette*, later the *Palestine Gazette*, issued by the British Mandate authorities from 1920-1948.

650 microfiche NE-1586/1

The Laws of Palestine. Robert Harry Drayton.

Rev. ed.

In English.

31 microfiche NE-1587/1

Qawānīn filastīn. Robert Harry Drayton. Rev. ed.

In Arabic.

44 microfiche NE-1588/1

The official Arabic and English texts of the Laws of Palestine issued by the British Mandate authorities up to December 31st, 1933. (3 volumes).

Legislation of Palestine. Norman Bentwich. 2 vols.

In English.

Compilation of the legislation of Palestine from 1918 to 1925.

14 microfiche NE-1589/1

Law Finder and Annotator. Simon Epstein.

In English.

Alphabetical index to the Laws of Palestine, in four sections.

6 microfiche NE-1590/1

Government of Palestine - legislation enacted and Notices issued (not gazetted), April 29th - May 14th, 1948 plus Supplement.

1 microfiche NE-1591/1

Agreement between Britain and Israel on Termination of the Mandate.

In English.

Typed copy only.

1 microfiche NE-1592/1

The Defence (Emergency) Regulations, 1945.

In English.

The complete original text of the Defence (Emergency) Regulations as issued in 1945 and amended until March 1947 by the British Mandate Authorities. These Regulations are currently being applied in the West Bank.

2 microfiche NE-1593/1

JORDAN

Military Orders and Proclamations issued by Jordan in the West Bank, 1948-1951.

In Arabic.

1 microfiche NE-1604/1

Al-ja'rida al-rasmiya lil-mamlaka al-urduniya al-hāshimiya.

In Arabic.

Compilation of all editions of the *Official Gazette*, in which all laws, regulations, and official announcements issued by the Jordanian Government between 1951 and 1967 were published chronologically.

370 microfiche NE-1595/1

Al-murshid lil-tashāri' al-urdunīya: Ibrāhīm Khaḥīl 'Isa.

In Arabic.

Index cataloguing according to subject all laws published in the *Official Gazette* until the end of January, 1967.

2 microfiche NE-1596/1

ISRAELI LAWS AND DECREES

Manāshir awāmir wa-ta'yināt. Al-daffa al-gharbīya.

Complete Hebrew/Arabic text, sixty-two volumes, of Military Orders and amendments governing the West Bank, issued between 1967 and 1983.

53 microfiche NE-1605/1

Manāshir awāmir wa-'ilānat. Qita'/Ghazza wa-shimāl Sīnā.

Complete Hebrew/Arabic text, in nine volumes, of 460 Military Orders and amendments governing the Gaza Strip, issued between 1967 and 1982.

52 microfiche NE-1598/1

Fihris al-awāmir al-askariya Shukri al-Nashāshibi. (L.S.M.).

In Arabic.

Index in Arabic classifying published Military Orders by subject matter, listing orders related to the subject currently recognized as law. Also contains a numerical listing of the orders with their amendments, and an appendix listing Orders 1-904 with volume and page number of the order.

2 microfiche NE-1606/1

Decisions of the Objections Committee.

In Hebrew with English translation.

The unpublished decisions to date of the Objections Committee, which was created under Military Order 172 (1967) and has jurisdiction to hear objections to, *inter alia*, decisions by the Israeli authorities relating to land.

2 microfiche NE-1607/1

Majmū'at qawānin al-arādī; Yūsuf Ibrāhīm 'Atā Allāh.

Compilation in Arabic of all laws, regulations, and Military Orders concerning land, now in force in the West Bank.

7 microfiche NE-1608/1

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