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LAWS

RESOLUTION No. (1724)

In the Name of the People,

The Revolutionary Command Council

In accordance with the provisions of para (a) of Article 42 of the Interim Constitution,

The Revolutionary Command Council have decided in their session held on 10/12/1979 to promulgate the following Law:-

LAW No. (160) OF 1979 JUDICIAL ORGANIZATION

TITLE ONE

Fundamental Principles

CHAPTER ONE

Bases of the Law

Article 1

The Judicial Law shall aim to:

Firstly - Organization of judicature in order to achieve justice with spirit that absorb the nature of social and economical changes in the stage of socialist building in the country.

Secondly - Preparation of judicature that is able to absorb the revolutionary legislations and resolutions, application of Laws with spirit of the revolution and with mentality that is compatible with socialist objectives.

Article 2

Judicature is independent and no rule other than Law thereon.

Article 3

The rule of judicature shall apply to all natural and juristic persons, public and private except that is excluded therefrom by special provisions

Article 4

Firstly - The Arabic language shall be the language of the Courts unless the law provides otherwise.

Secondly - The Court shall hear the sayings of litigants, witnesses or experts who ignore the language of the Court through a translator after his administering an oath.

Article 5

Sittings of the Courts shall be in public except if the Court decides to be in camera for preservation of public order, observing manners or respect of family and the pronouncement of judgement shall be in public.

Article 6

Judgements shall be issued and executed in the name of the people.

CHAPTER TWO

Duties of Judge

Article 7

A judge shall be bound with the following:

Firstly - To preserve the dignity of judicature and to avoid any thing that arouse suspicion on his honesty.

Secondly - To keep the matters, information and documents that he gets knowledge of them by rule of his post or during thereof if they were secret by their nature or it is feared of their disclosure to inflict harm to the state or persons. This duty shall remain standing even after termination of his service.

Thirdly - To not practise trade or any work which is not conformable to the post of judicature.

Fourthly - To reside in the center of administrative unit in which the headquarters of his work exists, except if the Minister

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of Justice allows him to reside in other place for circumstances appreciated by him.

Fifthly - To wear the special dress during pleading in accordance with Instructions to be issued by the Minister of Justice.

Article 8

Judges among whom there is affinity or relationship to fourth degree may not participate in one judicial body. And a judge may not consider an objection against a judgement issued by other judge with whom he is linked by the said relationship.

CHAPTER THREE

Extent of Application of the Law

Article 9

This Law shall apply to all Courts subject to its provisions and to judges who are working therein.

Article 10

Judicature shall not consider what is considered of sovereignty functions.

TITLE TWO

Judicial Formations

CHAPTER ONE

Kinds of Courts

Article 11

The kinds of Courts shall be as follows:-

- Firstly - The Court of Cassation.
- Secondly - The Court of Appeal
- Thirdly - The Court of first Instance.
- Fourthly - The Administrative Courts.
- Fifthly - The Courts of Personal Status.
- Sixthly - The Courts of Crimes .
- Seventhly - The Courts of Misdemeanours
- Eighthly - The Courts of Juveniles .
- Ninthly - The Higher Court of Labour and the Courts of Labour.
- Tenthly - The Courts of Investigation.

CHAPTER TWO

Jurisdictions of Courts

BRANCH ONE

The Court of Cassation

Article 12

The Court of Cassation is the supreme Judicial body which exercises the judicial supervision on all the Courts unless the Law provides otherwise. It shall consist of the president, five vice presidents and judges, their number in all shall not be less than thirty. Its headquarters shall be in Baghdad.

Article 13

Firstly - Bodies of the Court of Cassation shall be as follows:

A. General Body - which shall be held under the presidency of the president of the Court of Cassation or the oldest of his deputies at his absence or the existence of legal obstacle for his participation, the membership of his deputies and all judges of the Court who are working therein. It shall have jurisdiction to consider the following:

1. What is referred thereto from one of the bodies if it sees to abandon the principle that has been approved by previous judgements.
2. Suits in which a judgement with death has been issued.
3. To decide the dispute which occurs about the contradiction of judgements and decisions issued by the Court of Cassation.

B. Enlarged Body - Which shall be held under the Presidency of the president of the Court of Cassation or the elder of his deputies at his absence or existence of legal obstacle to his participation therein and the membership of

not less than of its judges. It shall have the jurisdiction to consider the following:

1. The dispute arising about execution of two contradicting judgements acquired the final stage, issued in one subject if it is among the litigants themselves or one of them is a party in these two judgements and one of the two judgements is preferred for execution without the other. The President of the Court of Cassation may suspend the execution of the two contradictory judgements until the issuance of the decision of Cassation.
 2. The dispute arising from defining the jurisdiction in considering of suit which occur between two Courts.
 3. What is referred to it by the President for deciding of judgements and decision that fall within the jurisdiction of the Court in accordance with the Law according which these judgements and decisions have been issued.
- C. The Civil Body - Which shall have jurisdiction to consider the civil judgements and the other different matters issued in accordance with the provisions of the Law.
- D. The personal Status Body - Which shall have the jurisdiction to consider the judgements and decisions issued by the Courts of personal status in accordance with the Law.
- E. The Administrative Matters Body - Which shall have the jurisdiction to consider the judgements and decisions issued by the administrative Courts in accordance with the provisions of the Law.

F. Criminal Body - Which shall have the jurisdiction to consider the judgements and decisions issued in the Criminal actions in accordance with the provisions of the Law.

Secondly - Each of civil body, personal status body, administrative matters body and Criminal body shall be held under the presidency of the vice president or whom elected by the presidency body and the membership of two of the Court judges at least.

Thirdly - The civil body shall be held under the presidency of vice president and the membership of four judges of the Court at least when it considers the judgements issued by the Courts of appeal, also the same in respect of the Criminal body when it considers the judgements and decisions of the Courts of Crimes that are issued by it in original character.

Fourthly -

- A. It is permissible that bodies to be several or to form other bodies by decision of the presidency body.
- B. The presidency body shall be formed from the president of the Court of Cassation and his deputies. In case one of them is absent he shall be replaced by the senior of judges of the Court.

Article 14

Firstly - Election of the heads of bodies shall be conducted at the beginning of each year by decision of the presidency and in case of absence of one of them the senior judge of the Court shall replace him.

Secondly - Formation of bodies including the expanded body shall be completed at the beginning of each year by decision of presidency body. The member of

body shall not be changed except if necessity requires so and in the same manner.

Article 15

Firstly - The jurisdictions of the president of the Court of cassation shall be as follows:

- A. Administration of the Court.
- B. Presiding over the presidency body.
- C. Presiding over the general body and expanded body or any of the bodies of the Court of Cassation.
- E. Inspecting the works of the Court of Cassation.
- F. Referring the objections submitted to the Court for receiving the dues, trusts and registering thereof.
- G. Granting leaves to the judges of the Courts, its officials and workers.
- H. Submitting the annual reports about the officials.
- I. Signing the official communications to the Ministries.

Secondly - The jurisdictions of the vice - president of the Court of Cassation shall be as follows:-

- A. To carry out the works of the president of the Court of Cassation during his absence.
- B. To preside one of the bodies of the Court of Cassation.
- C. To participate in the body of presidency.
- D. To sign the letters of returning the files of decided suits accompanied with decisions of the Court of Cassation.
- E. To carry out other powers with which he is authorized by the president.

BRANCH TWO
Courts of Appeal

Article 16

Firstly - The Court of Appeal is the higher judicial body of the Courts of one Governorate or more. It shall consist of president, sufficient number of vice-presidents prescribed thereto under the Law.

Secondly - The Courts of Appeal shall be formed as follows:-

- A. The Court of Appeal of Baghdad District - It shall contain the Courts of governorates of Baghdad, Anbar and Diyalla. Its Headquarters shall be in Baghdad City.
- B. The Court of Appeal of Basrah District. It shall contain the Courts of two governorates of Basrah and Misan . Its Headquarters shall be in Basrah city.
- C. The Court of Appeal of Nineveh - It shall contain the Courts of Nineveh Governorate. Its Headquarters shall be in Mosul City.
- D. The Court of Appeal of Babil District- It shall contain the Courts of Appeal of Governorates of Babil, Karbala, Najef and Kadisia - Its Headquarters shall be in Hillah City.
- E. The Court of Appeal of Taameem District - It shall contain the Courts of two Governorates, Taameem and Salah Al-Deen. Its headquarters shall be in Kirkuk City.
- F. The Court of Appeal of Autonomy District - It shall contain the Courts of governorates of Erbil, Sulaimaniah and Dehok. Its headquarters shall be in Erbil City.
- G. The Court of Appeal of Thikar District- It shall contain the Courts of governorates of Thikar, Muthanna and Wasit. Its headquarters shall be in Nasiriah City.

Thirdly - A Court or more may be detached from a Court of Appeal and be attached to another Court of Appeal by proposal of the Minister and decision of the Council of justice. Also it may be cancelled or created new Courts of Appeal with Republican Ordinance pursuant to proposal of the Minister.

Article 17

Firstly - The Court of Appeal and its bodies shall be held under the presidency of its president or one of his deputies, and membership of his two deputies or one of them and a judge of the Court of Appeal or membership of two of its judges.

Secondly - Nomination of the president and members of the Court of Appeal and its bodies shall be conducted by a notification to be issued by the Minister of Justice pursuant to proposal of the president of the Court of Appeal. The president or member may not be changed except if there is grave necessity which requires so.

Article 18

The president of the Court of Appeal shall undertake supervision over the Courts and their works in their districts and to distribute the work among judges thereof. He may authorize one of his deputies what he deems of powers.

Article 19

Firstly - There shall be formed in each appellate district a Council named (appeal district Council) which shall consist of the president of the Court, membership of his deputies and judges of the Court of Appeal.

Secondly - The Council shall meet once, at least, each month. Its president may convene it for meeting when necessary. It shall not be held except by attending not less than three quarters of number of its members.

Thirdly - The Council shall undertake to practise the following jurisdictions:

- A. To study the difficulties and problems that face the Courts and to determine them or to submit proposal for their treatment to the Ministry of justice.
- B. To examine the needs of Courts and their cadres in the light of annual statistics.
- C. To submit proposals in respect of creation of various Courts.
- D. To improve the styles of work and to raise the level of performance in the Courts.

Article 20

Firstly - The jurisdictions of the president of Court of Appeal shall be as follows:-

- A. To supervise the administrative matters and distribution of the work within his district.
- B. To preside over the Council of Appeal district.
- C. To preside over the Court of Appeal in its Cassation Character. He may preside over the Court of Appeal in its extraordinary character or the Court of Crimes.
- D. To refer the objections submitted to the Court of Appeal in its appellate and cassation character for receiving dues and trusts.
- E. To submit the annual reports about judges and officials.
- F. To sign the official communications.
- G. To grant leaves to judges of the Court, its officials and workers.

Secondly - The vice - president of the Court of Appeal shall have the following jurisdictions:

- A. To carry out the works of the president of the Court of Appeal at his absence.
- B. To preside one of the bodies of the Court of Appeal or the Court of Crimes.
- C. To sign the letters of returning of files of the decided suits accompanied by the decisions of the Court of Appeal to its competent Court.
- D. To watch the attendance of judges, officials and workers.
- E. Other jurisdictions authorized to him by the President of Appeal.

BRANCH THREE
Court of First Instance

Article 21

A Court or more shall be established in the Center of each Governorate or Gadha. It may be established in the Nahiyahs by notification to be issued by the Minister of Justice. He may expand the local jurisdiction of the Court to more than one Qadha or Nahijah.

Article 22

The Minister of Justice, pursuant to proposal of the President of the Court of Appeal may form a Court of First Instance to consider one kind or more of suits.

Article 23

The Court of First Instance shall be held from one judge and shall have jurisdiction to consider the suits and matters included within its jurisdiction in accordance with the provisions of the Law.

BRANCH FOUR
The Administrative Court

Article 24

Firstly - An administrative Court or more shall be formed with the local jurisdiction of the Court of Appeal of Baghdad.

Secondly - Administrative Courts may be formed in the other Court of Appeal by a notification to be issued by the Minister of Justice in which its local jurisdiction and the centre of its holding shall be defined.

Article 25

The administrative Court shall be held from one judge and shall have jurisdiction to consider the suits and matters included within its jurisdiction in accordance with the provisions of the Law.

BRANCH FIVE
Courts of Personal Status

Article 26

A Court or more of personal Status shall be formed in each place where there is Court of First Instance.

Article 27

The Minister of Justice may, pursuant to proposal of the president of the Court of Appeal form a Court of personal Status to consider one kind or more of suits.

Article 28

Firstly - The Court of personal Status shall be held from one judge and shall have jurisdiction to consider the questions of personal Status in accordance with the provisions of the Law.

Secondly - The Muslim judge of the Court of First Instance shall be regarded as judge of the Court of personal Status if it has no special judge.

BRANCH SIX
Court of Crimes

Article 29

Firstly - In the centre of each governorate there shall be established a Court of Crimes to consider the criminal suits assigned thereto in accordance with the provisions of the Law.

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Secondly - More than one Court of Crimes may be established in the governorate by a notification to be issued by the Minister of Justice in which its kind and local jurisdictions and the centre of its holding shall be defined.

Thirdly - The Court of Crimes may be held outside the centre of the governorate by a notification to be issued by the president of the Court of Appeal pursuant to proposal of the president of the Court of Crimes.

Article 30

Firstly - The Court of Crimes shall be held in the centre of the Court of Appeal from three judges under presidency of the president of the Court of Appeal or one of his deputies and membership of other two deputies or one of them and a judge or membership of two judges the class of each one of them shall not be less than second class.

Secondly - Nomination of the president and original members and reserves of the Court of Crimes shall be performed by a notification to be issued by the Minister of Justice pursuant to proposal of the president of the Court of Appeal.

BRANCH SEVEN

Court of Misdemeanour

Article 31

Firstly - A Court of Misdemeanour or more shall be formed in each place where there is Court of First Instance. It shall have jurisdiction to consider the suits assigned thereto in accordance with the provisions of the Law.

Secondly - The Court of Misdemeanour shall be formed from one judge.

Thirdly - The judge of the Court of First Instance shall be regarded as judge of the Court of Misdemeanour if it has no special judge.

Article 32

The Minister of Justice, pursuant to proposal of the president of the Court of Appeal may form a Court of Misdemeanour to consider one kind or more of suits.

BRANCH EIGHTH

Juvenile Court

Article 33

Firstly - The Juvenile Court shall be formed from a body presided by the judge of Juvenile Court and membership of two arbitrators. It shall consider Crimes and issue its judgements therein in accordance with the Law for Juveniles.

Secondly - Nomination of the president of body and original arbitrators and reserves shall be performed by a notification to be issued by the Minister of Justice pursuant to proposal of the president of Court of Appeal.

Thirdly - Contraventions and Misdemeanours shall be considered by juveniles judge alone in accordance with the provisions of Juvenile Law.

BRANCH NINE

Courts of Work

Article 34

The Courts of work shall consist of:

Firstly - The Courts Work in the Governorates and Supreme Court of Work.

Secondly - The Courts of Work shall have the jurisdiction to consider suits and matters included within its competence in accordance with provisions of the Law.

BRANCH TEN

Court of Investigation

Article 35

Firstly - A Court of Investigation or more shall be established in each place where there is a Court of First Instance and the judge of the Court of First Instance

shall be the judge of investigation unless a special judge is appointed thereto. He shall carry out investigation in accordance with provisions of the Law.

Secondly - The Minister of Justice, pursuant to proposal of the president of the Court of Appeal may assign a Court of Investigation to a certain kind or kinds of offences.

Thirdly - The Minister of Justice may form a body under presidency of a judge to investigate in a certain offence or offences and the body shall have the power of investigation judge.

**TITLE THREE
JUDICIAL POST
CHAPTER ONE
JUDICIAL SERVICE
BRANCH ONE
Appointment of Judges**

Article 36

Firstly - After the execution of this Law it is stipulated in any one who is appointed as judge to be an Iraqi, by birth, married and graduated from the Judicial Institute.

Secondly - The salary of graduate from the Judicial Institute shall be (70/—) seventy Dinars monthly if he has spent the minimum limit of service or practice which entitled him to be admitted in the Institute, the surplus of that shall be counted for increment and promotion. The salaries of judges who have graduated from the Institute before enforcement of this Law shall be amended accordingly.

Article 37

Firstly - The Minister of Justice shall define the Court at which the judge shall starts his work after issuance of the Republican Ordinance for his appointment as judge.

Secondly - A judge may not practise his works except after he takes the following path before the Council of Justice formed under the Law No. (101) of 1977 for the Ministry of Justice :

(I swear by god that I shall judge among people with justice and apply the Laws honestly with what comply with their goals in building the united democratic socialist soceity).

Artio'e 38

Firstly -

A. The grades and salaries of judges, their annual increments and periods of their promotion shall be as follows:

Grade	Limits of salary	Increment	Term of promotion
A	165 — 200	7	—
B	135 — 155	6	5
C	100 — 125	5	5
D	70* — 95	4	5

B. Judges who receive salary amounting (72/—) Dinars monthly at the enforcement of this Law shall continue to receive their salaries and shall be granted the increment in accordance with the provisions of para (a).

Secondly -

A. The president of the Court of Cassation shall be in the grade of Minister and shall receive a salary of the Minister and his allowances.

B. The salary of vice - President shall be 220/— Dinars and the salary of judge of Cassation is 200/— Dinars.

Thirdly - A judge shall be granted spontaneous increment from the minimum limit to the maximum limit for each grade as it is stated in item (firstly) of this Article when he completes one year in service.

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Fourthly - The vice - presidents of the Court of Cassation and judges shall receive all high cost living allowances which are received by the officials subject to Civil Service Law.

Fifthly - The judges shall receive judicial allowances as follows:

Salary

	In the qadhas and Nahiyais except the Governorate of Baghdad	In the Centres of Governorate except Baghdad
70 — 125	100% of the nominal salary	90% of the nominal salary
135 — 155	90% of the nominal salary	80% of the nominal salary
165 — 200	80% of the nominal salary	70% of the nominal salary

B. Judges who are working in Baghdad Governorate shall receive judicial allowances 60% sixty per cent of their nominal salaries including deputies of the Court of Cassation and its judges.

C. Whoever receives the allowances in accordance with the rates mentioned in para (a) must be residing in the headquarters of his work otherwise he shall receive the lesser rate of these allowances between the place of his residence and the headquarters of his work.

Sixthly -

A. Judges who are working outside Baghdad Governorate shall be granted fixed dwelling allowances of (30) thirty Dinars monthly.

B. No dwelling allowances shall be granted to the person who is occupying a house belongs to the State against a

rent not exceeding thirty Dinars. His Department shall undertake to pay this rent. If the rent is exceeding the said amount then the judge shall bear what is surplus to that.

C. Whoever owns a house in the headquarters of his work shall be deprived from dwelling allowances also the person who does not reside in the centre of his work shall be deprived therefrom.

Seventhly - Who he is appointed in the post of president of the Court of Appeal or who he is deputed to this post shall be granted special fixed allowances amounting (25) twenty five Dinars monthly.

Eighthly - Directors Generals of departments of the centre of Ministry of Justice and its organs, president of State Consultation Council and his two deputies, consultants in the Council, president of public prosecution, public prosecutors, Assistant prosecutors and judicial supervisors shall receive the judicial allowances and fixed dwelling allowances provided for in this Article and in accordance with its provisions if they were other than judges.

Ninthly - Judicial allowances, dwelling allowances and fixed special allowances that are granted under this Article shall be excluded from the provisions of the Law of State Officials and its Employees Allowances No. (93) of 1967 or any other Law substitutes thereof.

BRANCH TWO Judges Promotion

Article 39

Firstly - A judge shall be promoted from one grade to a higher grade by decision from the Justice Council after he has spent the defined term in his grade set forth in item (firstly) of Article 38 of this Law.

LAWS

Secondly - The Justice Council shall observe when considering the promotion of a judge the reports of presidents of Appellate districts and president of the higher Court of Labour in respect of Labour judges and judicial supervisors as concerning his efficiency and his good management and the opinion of the Ministry of Justice as concerning his behaviour.

Thirdly - The Justice Council shall issue its decision with the promotion of a judge if his competence for promotion is confirmed. The Ministry of Justice shall issue an order accordingly.

Fourthly - The Justice Council may, by reasoned decision, postpone promotion of a judge for a period not less than three months and not exceeding one year and for more than once if it finds that he is not qualified for promotion.

Fifthly - The service of a judge may be terminated or he may be transferred to a civil post by a Republican Ordinance pursuant to the decision of Justice Council and proposal of the Minister of Justice if his promotion is delayed for more than two consecutive times in the same grade.

BRANCH THREE

Leaves and Pensionary Rights

Article 40

Firstly - A judge is entitled to (ordinary leave) with full salary in the average of one day for eight days from the term of his service.

Secondly - A judge must enjoy in each year with what not less than thirty days from his annual leaves to which he is entitled. In case he does not enjoy it then nothing shall be rounded therefrom except the part that is exceeding the thirty days.

Thirdly - The ordinary leaves that are rounded in accordance with item (secondly) of this Article may be accumulated in what exceeding (180) days.

Fourthly - The leaves which are entitled to a judge for his previous services shall be rounded to him.

Article 41

Firstly - The Minister of Justice may grant the judge who spent a period of three years in judicature a study leave outside or inside Iraq for a period of two years with full salary for specializing in a subject related to judicial and juridical specializations and to obtain a Master or Doctorate degree. He may extend this leave for further year.

Secondly - A study leave may be granted once again to whoever ended his first study leave and obtained the Master certificate for a period of two years for the purpose of obtaining the Doctorate certificate in the same subjects mentioned in item (firstly) of this Article after passing a year from his starting his post. The Minister of Justice may extend this leave for further year.

Thirdly - A study leave may not be granted to whoever completed forty years of his age if he wants to obtain Master certificate and forty five years to whoever wants to obtain Doctorate certificate.

Fourthly - The study leave shall be considered as judicial service and whoever obtains a Doctorate certificate shall be granted precedence for the purpose of promotion and increment for two years and one year to whoever obtains Master certificate only.

Article 42

Firstly - A judge may not be placed on pension except when he completes sixty three of his age. He may be placed on pension before that upon his request in accordance with the provisions of the Law for Civil pension.

Secondly - A judge who is placed on pension shall be granted the salaries of ordinary leaves entitled to him completely on basis of the total of what he was receiving monthly before placing him on pension provided that they shall not exceed (180) days.

Article 43

Suits concerning rights arising from this Law shall be instituted at the Committee of Judges Affairs which is formed from three members elected by the Justice Council from among the judges of its members at the beginning of each year. Its decisions in these suits shall be liable to objection against before the extended body in the Court of Cassation by the Minister of Justice and by the judge against whom the decision has been issued within thirty days from the date of service therewith and its decision in this respect is final.

Article 44

Provisions of Civil Service Law and Civil pension Law shall apply to the matters that are not provided for in this Law and in a way that doesnot contravene its provisions.

CHAPTER TWO
Judicial Gradation
BRANCH ONE
Judicial Promotion

Article 45

Firstly - Classes of Judges and the limits of salary of each class shall be as follows:

Class	Salary
First	165 — 200
Second	135 — 200
Third	100 — 200
Fourth	70 — 200

Secondly - A judge shall be promoted from one class to another by a decision of the Council of Justice upon application to be presented by him to the Ministry of Justice provided that he has:

- A. Attained the lower salary of the class to which he is to be promoted.
- B. Prepared a research in a subject which has relation with the judicial or juridical jurisdictions. He who has obtained the Master degree shall be exempted from presenting the research for one promotion. Also he who has obtained a doctorate degree shall be exempted from presenting thereof for two consecutive promotions.

Article 46

Firstly - The Ministry of Justice when the application for promotion is submitted, must seek the opinion of each of the Court of Cassation, the presidency of the Court of Appeal, presidency of the Higher Court of Labour in respect to Labour judges and presidency of Judicial Supervision Body about efficiency of the judge and his competence for promotion.

Secondly The Ministry of Justice shall forward the application accompanied with its opinion to the Council of Justice for consideration thereof.

Thirdly - The Council of Justice shall seek support in evaluation of competence of a judge for promotion with the notes set forth in the two paras (firstly) and (secondly) of this Article and with the annual reports submitted by his presidents, the reports of judicial supervisors and the legal research presented by him and the judgements issued by the judge in which he exerted a good effort and included therein legal opinions which confirm his following up the juridical and judicial activity. The Council of

Justice shall issue its decision with the promotion of the judge if he deserves it otherwise his promotion shall be delayed for a period not less than six months with reasoning decision to be served on him.

Fourthly - The Council of Justice shall consider the matters concerning promotion in the two months of January and July of each year and its decisions in this respect are final.

BRANCH TWO
Judicial Posts

Article 47

Firstly - The vice-president of the Court of Appeal and its judges shall be elected from among the judges of first or second class by decision of the Council of Justice upon nomination by the president of the Court of Appeal.

Secondly - The president of the Court of Appeal shall be appointed from the judges of first class from among the vice presidents of the Court of Appeal or from among the Directors General of the departments of the Ministry of Justice centre and its organs by a decision of the Council of Justice and upon nomination by the Minister of Justice.

Thirdly - A judge of the Court of Cassation shall be appointed by Republican Ordinance pursuant to proposal of the Minister of Justice from among the judges of first class of those who occupied the following post for a period not less than two years:

- A. President of the Court of Appeal.
- B. Vice-President of the Court of Appeal.
- C. Judge of the Court of Appeal.
- D. President of the Judicial Supervision Body and the Judicial Supervisor.
- E. President of State Consultation Council, his two deputies and counsellors in the Council.

F. President of Public prosecution, vice-President of Public prosecution and public prosecutor.

G. Directors General of the Departments of the centre of the Ministry of Justice and its organs.

Fourthly - Vice-President of the Court of Cassation shall be appointed by Republican Ordinance pursuant to proposal of the Minister of Justice from among its judges who spent a period not less than three years therein.

Fifthly - The president of the Court of Cassation shall be appointed by a Republican Ordinance pursuant to proposal by the Minister of Justice from among the deputies of the president of the Court.

Article 48

The precedence of judges shall be according to their posts, classes and the date of their appointment therein and in case of their equality in that, the precedence shall be in accordance with what the Minister of Justice determines.

BRANCH THREE
Transfer and Deputation

Article 49

Firstly -

- A. A judge shall not be transferred to a non judicial post except by his consent in writing.
- B. A judge in the Court of Cassation may be deputed by his consent in writing and with order of the Minister of Justice, to the post of legal counsellor at the Revolutionary Command Council Presidency of Diwan of the Republic presidency, presidency of one of the departments of the Ministry of Justice centre and its organs, presidency of Agricultural Agrarian Reform Cassation Body or Teaching in the University or Judicial Institute provided that he shall preserve his judicial character and right to therein.

Secondly -

A. A judge may be deputed with his consent in writing and with an order of the Minister of Justice to the departments of the Ministry of Justice centre and its organs of other than Courts provided that he shall preserve his judicial character, rights therein and what he is entitled to of allowances before his deputation. The appropriateness of the post to which he is deputed and his class shall be observed.

B. A judge may not be deputed to a post in the official departments and institutions of socialist sector. It is excluded from that, his deputation with his consent in writing and with the order of the Minister of Justice to carry out the legal posts in the Revolutionary Command Council, Presidency of Diwan of the Republic presidency or to Agrarian Reform cassation Body or to teaching in the University or the Judicial Institute provided that he shall preserve his judicial character and rights therein.

Thirdly - The period of deputation provided for in the two paras (firstly) and (secondly) of this Article shall not exceeding three years liable to renewal for a further year.

Article 50

Firstly - After execution of this Law the following shall not be valid:

A. A judge of fourth class may not be appointed in other than Qadhas and Nahyas.

B. A judge of third class may not be transferred to the Courts of Baghdad Governorate.

Secondly - A judge may not be transferred before passing three years in one place. The Council of Justice may transfer him by reasoned decision if it is confirmed from the reports issued by the official medical committees that his health condition requires his

transfer or if his post circumstances are not permitting him to carry out his functions properly in the place of his work and that his remaining in his place may affect the process of Justice.

Thirdly - A judge from fourth or third or second class may not remain without transfer more than five years. Judges who are working in the Courts of Baghdad Governorate are excluded from imposition of transference.

Fourthly - The Minister of Justice may exclude the women graduates and first three men graduated from the judicial institute in each year before and after the execution of this Law from the provisions of item (firstly) of this Article for working in any place including in that the governorate of Baghdad.

Fifthly - A judge may be deputed for working in another Court when the public interest requires so by an order of the president of the Court of Appeal. The deputation from one appellate district to another shall be conducted by an order from the Minister of Justice provided that the period of deputation shall not exceeding four months.

Article 51

Transfer of judges shall be conducted during the month of July of each year. The Transfer may be conducted in other than the said month when the public interest requires that. This transfer shall be carried out by the approval of the Council of Justice pursuant to the proposal of the Minister of Justice.

BRANCH FOUR

Full Devotion of Judges and their Specialization

Article 52

Firstly - A judge may enjoy one year for full devotion inside or outside Iraq for presenting a study or research in a subject which has relation with the juridical or judicial specializations

pusuant to proposal of the Minister of Justice and a decision from the Council of Justice upon request submitted by a judge in which he defines the place and subject that he wants to research or to present a study thereabout.

Secondly - It is stipulated in a judge who is granted a full devotion year to be a judge of the Court of Cassation or judges of first or second class.

Thirdly - A judge may enjoy a second year of full devotion after passing five years on the termination of his first devotion

Article 53

Firstly - A judge who has been devoted shall undertake with the following.

- A. That he shall not change the subject of his devotion except with the approval of the Minister of Justice provided that he must present the application of change within three months from the date of full devotion.
- B. That he shall not change the place of full devotion except with the approval of the Minister of Justice. This shall not include the temporary transferring required by study or research.
- C. That he must not enjoy any leave during the period of devotion except the sick leave that is legally recognized .
- D. That he must present three copies of his research or study to the Ministry of Justice in a maximum appointment not exceeding three months from the date of termination of his devotion.
- E. That he should continue the judicial service after the termination of full time devotion for a period equalling the period of full time devotion.

Secondly - The judge who obtained full time devotion shall return to the Ministry of Justice all salaries and allowances which he received and all the expenses, grants and aids which were spent on him without a notice in the following cases:

- A. If he does not present the research or study for which he had full time devotion during the term defined in para (D) of Item (firstly) of this Article or he has left the devotion for any reason except the preventive sickness affirmed by legally recognized medical reports.
- B. If he left service before the termination of the term defined in para (E) of Item (firstly) of this Article.

Article 54

A judge of second class and above may specialize in one or more of Judicature branches in accordance with the instructions issued by the Justice Council.

CHAPTER THREE

Supervision Over Works of Judges and

Disciplinary Matters

BRANCH ONE

Supervision Over Works of Judges

Article 55

Firstly -

- A. The Minister of Justice has the right of supervision over all Courts, judges and those who are authorized with judicial powers such as officials, bodies and committees and to control the proper administration of the Courts and the behavior of those who are carrying out their works and their personal and official behavior, the organization of their registers, accounts and the attendance of those who are working therein and to observe the judges adher-

ing to their duties provided for in Article (7) of this Law.

- B. The Minister of Justice may, in execution of supervision and control as set forth in para (A) conduct supervision over all Courts and authorities authorized with judicial powers or he may depute one of the judges of the Court of Cassation or president of Judicial Supervision Body or the judges deputed to supervision or any other judge to carry out this task .
- C. The inspection over works of the Court of Cassation and supervision over its judges shall be conducted by its president provided that he must submit an annual report about the works of the Court to the Minister of Justice and the Council of Justice.

Secondly -

- A. The president of the Court of Appeal shall have the right of supervision over all the judges and Courts in his district and to inspect them, to give the necessary directions and to draw the attention to what is contravening the duties of post and the good process of administrative and accounts works. He must submit an annual report to the Minister of Justice about judges which contains his notes about the behavior of each of them, his efficiency and the extent of his adhering to his duties and about the administrative and financial matters in their Courts and what he sees at the result of his supervision. These reports shall be deposited to the personal file of the judge.
- B. The president of the Court of Appeal may depute one of his deputies to inspect any Court in his district.

Article 56

Firstly - The Cassation bodies, Courts of Appeal bodies and the Courts of Crimes must organize seasonal reports in which they shall set forth the judgements and decisions at which a judge has committed gross mistake as result of his ignorance in primary legal principles or omission of facts that appear to them when examining the judgements and decisions. They must send a copy thereof to the Ministry of justice and the Council of Justice for keeping them in the personal file consideration at his promotion or raising.

Secondly - Registers for these mistakes shall be kept in the Ministry of Justice, the Council of Justice, the Court of Cassation, the Court of Appeal and the Courts of Crimes in accordance with the Instructions issued by the Minister of Justice.

Article 57

Firstly - The Minister of Justice may call the attention of a judge to the legal and administrative mistakes that appear at the result of inspection over his works and to all contraventions committed by him to the duties and requirements of his post.

Secondly - The president of the Court of Cassation and the president of appeal may call the attention of a judge to the legal mistakes that appear during the cassation examinations.

Thirdly - The president of the Court of Appeal may call the attention of a judge in his district to what occur of contraventions by him to the duties of his post.

Fourthly - Calling attention shall be done by a letter directed to the judge and a copy thereof shall be forwarded to the Minis-

try of Justice and the Council of Justice and another one be deposited to his personal file.

BRANCH TWO
Disciplinary Matters

Article 58

The committee of judges affairs formed under the Law for the Ministry of Justice shall, in the disciplinary suits instituted against a judge issue one of the following disciplinary punishments:

Firstly - Warning - which shall cause delay of increment of a judge and his promotion for a period of six months.

Secondly - Delay of promotion or increment or both of them for a period not less than one year and not exceeding three years from the date of decision if he has completed the legal period for promotion, otherwise from the date of its completion.

Thirdly - Termination of Service - This punishment shall be imposed on a judge if a final judgement is issued against him with punishment by a competent Court for an act which does not suit the honour of the judicial post or if it is proved by a trial conducted by the committee that the judge is incompetent to continue in the judicial service.

Article 59

Firstly - The Council of Justice may terminate the service of a judge of forth class or transfer him to a civil post upon a reasoned decision that he is not competent for judiciary. This shall be performed by a republican Ordinance.

Secondly - Whoever whose service is terminated in accordance with the provisions of this Law shall not be returned to judic autre provided that this shall not prevent from appointing him in a civil post.

Article 60

Firstly - The disciplinary suit shall be instituted against a judge upon decision by the Minister of Justice for referring him to the committee of Judges affairs provided that the decision must contain a statement of the fact attributed to him and the proofs supporting it. This decision shall be served on each of judge and public prosecutor.

Secondly -

A. The Committee of Judges Affairs shall define an appointment for consideration of the suit which shall be served on the Minister of Justice, the presidency of public prosecution and the judge.

B. The trial shall be in camera and the decision shall be pronounced in public.

C. The trial shall be conducted with presence of the representative of the Minister of Justice and the president of public prosecution or whom he deposes of public prosecutors. The judge must attend by himself and he may bring with him an advocate.

D. The committee may conduct by itself what it sees necessary of investigations.

E. The committee shall decide the suit after completion of investigation, hearing the statements of the representative of the Minister of Justice, public prosecutor and the defence of the judge. Its decision shall be served on the Minister of Justice, the president of public prosecution and the judge.

F. The committee shall follow in its proceedings the rules provided for in the Criminal procedure Law.

Article 61

Firstly - If the committee of Judges affairs finds during consideration of suit that the act attributed to the judge forms a Crime or misdemeanour then it shall decide to refer him to the competent

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Court to which all the papers shall be sent after the Minister of Justice suspend the judge in accordance to what is provided for in the State Official Disciplinary Law.

Secondly - If the competent Court decides the innocence of the judge or his acquittal or it issued any decision by which the Criminal suit shall be terminated, the committee must continue the consideration of the disciplinary suit in accordance with the provisions of this Law.

Thirdly - If the Court decides conviction of a judge, then the committee must impose a disciplinary punishment appropriate to the act attributed to him in accordance with the provisions of Article (58) of this Law.

Article 62

The Minister of Justice, president of public prosecution and the judge shall have the right of objection at the plenary body in the Court of Cassation against the decision of the committee of Judges affairs issued in accordance with the provisions of this Law within thirty days from the date of service therewith. The plenary body, if the case required to call the representative of the Minister of Justice, the representative of the president of public prosecution and the judge to hear their sayings then it shall issue its decision with approval of the decision of the committee or annulment or amending thereof. Its decision in this respect shall be final.

TITLE FOUR Final Provisions

Article 63

Firstly - If the president of Court or president of body is absent or his post became vacant or an obstacle has prevented him from his work, then the senior of deputies or members shall practise his work.

Secondly - If more than one judge exist in one Court then the senior of them shall be responsible for the administration and distribution of work among them. The Minister of Justice may appoint other than him .

Article 64

A judge may not be arrested or taking the Criminal procedures against him in other than the case of flagrant delit except after obtaining permission from the Minister of Justice.

Article 65

Firstly - The expression (Court of First Instance) shall replace the expression (Court of peace) wherever it is set out in the Civil procedure Law and other Laws.

Secondly - The judgements and decisions issued by the Courts of peace before enforcement of this Law or those which are issued from the Courts of First Instance after its enforcement in the suits subject to provisions of Article (31) as amended of Civil procedure Law No. 83 of 1969, shall remain subject to the same methods of objections provided for in the Law.

Thirdly - The expression (Court of personal Status) shall replace the expression (Shara Court) wherever it is set out in the Laws.

Fourthly - The expression (Court of Crimes) shall replace the expression (Criminal Bench Court) wherever it is set out in the Laws.

Fifthly - The expression (Court of Misdemeanors) shall replace the expression (Criminal Court) wherever it set out in the Laws.

Article 66

The judges of first, second and third class who are existing in service before 1/8/1979 shall preserve their salaries, classes and rights therein exceptionally from restriction provided for

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in para (firstly) of Article (45) of this Law and they shall be subject to its provisions in respect of the procedures of raising to classes next to their classes after their promotion to the grades that follow their grades to which they have reached.

Article 67

Times of attendance in the Courts shall be defined by decision from the Justice Council according to seasons provided that the daily period of attendance shall not be less than five hours. Special times of attendance may be defined in the month of Ramadhan provided it shall not be less than four hours.

Article 68

Regulations and Instructions may be issued for facilitation of execution of this Law.

Article 69

Law for Judicial power No. (26) of 1963 as amended and the Regulations issued according thereof shall be repealed.

Article 70

This Law shall come into force thirty days after the date of its publication in the Official Gazette.

Saddam Hussain

Chairman of the

Revolutionary Command Council

(Published in the Alwaqai Aliraqiya
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STATEMENT OF GROUNDS

Starting from the principles of the national and socialist 17th — 30th July Revolution and applying the provisions of Legal System Reform Law it became inevitable to reconsider the judicial organization in accordance with the starting points that are appropriate with the process of the Revolution in building up the judicial organ that is able to bear its responsibility in

application of Laws and achieving Justice in spirit that embrace the nature of social and economic changes and to be able to deepen these changes and to speed thereof by absorbing the Revolutionary legislations and decisions and application of enforced Laws with spirit of the Revolution and judicial mentality that conform with the socialist aims.

As the judicial power Law No. (26) of 1963 has become incapable to accompany the new changes that are achieved by the Revolution, therefore this Law has been prepared to be in harmony with the aims of the Revolution in establishing a developing judicial organ.

From this starting point the Law has contained new principles as it created a body for the presidency in the Court of Cassation and defined its jurisdictions and a council in each appellate district which undertake to study the difficulties and problems that are faced by the Courts and to submit the proper proposals for their treatment. It also distinguished between raising the judges and his promotion intending by that to develop his legal and cultural level and to link his raising with this level to be able to accompany the legal and jurisprudential development. Also the Law has adopted the principle of full time devotion of a judge for carrying out studies and researches relating to legal and judicial jurisdictions that participate in developing the judicial organ. It formulated new rules for electing the judges for main judicial posts and other rules for transfer connecting to their classes for achievement of justice and its good process.

For all that this Law has been enacted.

Aluwaqai Aliraqiya

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