Arbitration in Labor Disputes
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Executive summary

From ancient times, arbitration has been used by communities to solve disputes. Disputes were brought before religious leaders and tribal elders to reach a binding decision that will be accepted by the parties to the dispute. As States developed and authorities emerged, laws and regulations were enacted to ensure the resolution of disputes and the defense of interests, rights and freedoms through judicial systems.

Many countries have adopted legislation about arbitration mechanisms to solve disputes, including Palestine. In Palestine, the Arbitration Law No. 3 of the year 2000 stipulates the rules for arbitration proceedings and decisions, and methods of appeal. Arbitration is one of alternative means to the judiciary for solving disputes. It depends mainly on the will of the parties to a contract based on the legal principle of pacta sunt servanda, i.e., that clauses of a contract are law between the parties. Unlike the judiciary, arbitration gives parties to a contract the right to agree that an emerging dispute or one that may arise in the future between them shall be settled through arbitration. Thus, disputes are handled outside the scope of ordinary courts, which leads to saving time and efforts, as well as reducing costs as much as possible.

For these reasons and due to the accumulation of labor disputes conflicts in Palestinian courts in the absence of specialized labor courts, this study encourages resorting to arbitration as an efficient and effective means for solving labor disputes, alleviating the burdens of the judiciary and speeding up decisions. Furthermore, these disputes concern a wide category of persons, which are often characterized as the weaker party in disputes.
The first section of the study addresses the nature, conditions and procedures of arbitration.

The first chapter provides a definition of arbitration based on jurisprudence, legislation and linguistics, as defined in Palestinian law and the laws of neighboring countries. As per these definitions, arbitration is an agreement to submit a dispute to a designated person or persons to adjudicate it without resorting to the competent court, i.e. it relies on the choice of the parties to the dispute, rather than relying on the judicial system in their country of residency. An arbitral tribunal is formed consisting of one or several arbitrators as agreed by the parties. Arbitration has comparable power to courts to adjudicate disputes that are brought before the arbitral tribunal. The competence of the tribunal ends with the issuance of a decision that parties to the dispute abide with. Therefore, it allows the resolution of any dispute, like the judiciary, but swiftly and with less efforts. This chapter also discusses types of arbitration. According to the Palestinian Arbitration Law, arbitration is divided into domestic, international and foreign arbitration, and private and institutional arbitration. The study differentiates between them.

The second chapter addresses the conditions that must be met by the arbitrator in the arbitration process, namely:

- **Legal capacity:** the arbitrator shall be in full possession of his/her legal capacity i.e. the capacity to enter a contract and execute it, and shall enjoy his/her civil rights and not convicted of any felony or misdemeanor involving moral turpitude, dishonesty or bankruptcy

- **Experience and expertise:** the arbitrator shall be a person qualified in a particular field, which is difficult for others to address

- **Goodwill:** is proven through writing, i.e. the fact that arbitration has been chosen freely and without undue influence or coercion. This shall be ensured by the following conditions: the agreement shall be in writing, and shall include the subject of the dispute if arbitration was agreed upon after the dispute arose
• **Subject matter**: the subject of a dispute can be submitted for arbitration if this dispute exists when an agreement for arbitration is made, or if such a dispute is expected in the future in case of an arbitration clause in an agreement. Disputes can be subject to arbitration if they concern contractual or non-contractual, public or private matters, civil or commercial issues, provided the dispute or its subject is legitimate.

• **Natural person**: the arbitrator shall be a natural person and is chosen according to the will of the parties. The wisdom of this condition is that only a natural person is in possession of his/her own mind, conscience, common sense, logic, can weight things, seek justice, and can distinguish between right and wrong. This cannot be achieved by a moral entity.

• **Palestinian nationality**: the arbitrator shall have Palestinian nationality and enjoy his/her civil rights, be of good reputation and conduct, and shall not have been previously dismissed from service by disciplinary decision.

• **Confidentiality**: the arbitrator has the duty to preserve confidentiality during arbitration proceedings based on the agreement of the parties; in all cases, the parties may agree on additional conditions for the arbitral tribunal such as nationality, language, religion, practical and scientific expertise, and these shall not be raised by the tribunal itself.

**The following conditions must be included in arbitration agreements:**

1. Arbitration shall be included as a clause in a contract, or in a separate agreement.
2. It shall be stipulated in writing and include basic items, including the names of the litigants, the subject of the dispute, and their accord to submit it to arbitration, as well as the date and place of the agreement and the signature of the opponents.
3. An arbitration agreement may not be repelled without the consent of the parties.
4. An arbitration agreement does not end with the death of one of the parties, unless the dispute is directly related to the deceased person.
5. Any of the parties to the agreement shall refrain from resorting to courts to settle the dispute in place of arbitration; likewise, a court may not hear a case that is subject to an arbitration agreement.
The third chapter addresses arbitration proceedings. It first clarifies that an arbitral tribunal is constituted by one or several arbitrators based on the agreement between the parties. According to article 22 of the Palestinian Arbitration Law, Arabic shall be the language of arbitration, unless the parties agree otherwise. If the parties to the conflict have multiple languages, the arbitral tribunal shall decide on the language or languages to be used in the proceedings, and may require from any of the parties to provide written documents translated into the language adopted by the tribunal, and the use of a licensed interpreter in case of multiplicity of languages of the parties to the dispute. The parties shall agree on the location of the arbitration proceedings, and if they do not reach an agreement, it shall be determined by the tribunal taking into account the circumstances of the dispute and the location’s suitability for the parties to the dispute. It may hold a hearing or more at any place it deems appropriate.

**Arbitration proceedings** are as follows: if the arbitral tribunal accepts the arbitration mission, it shall start working immediately. The plaintiff shall send a plea to the arbitral tribunal and the defendant within a period specified by the tribunal, accompanied by the required documents. The tribunal shall specify the date of a hearing to be attended by both parties, after notifying them in advance. The parties may only submit memoranda and documents. Notifications may be issued to the parties in more than one way: in person, or to the person’s office or place of residence or mailing address specified in the arbitration agreement or contract. If the plaintiff does not submit a statement that includes his claims, determines the questions in dispute and requests without an acceptable excuse, the tribunal shall dismiss the allegations of the plaintiff upon request of the defendant. If the defendant does not submit a memorandum of reply on the claims of the plaintiff without an acceptable excuse, the tribunal shall pursue its proceedings at the request of the plaintiff and is may render a decision in absentia. The tribunal shall listen to the parties’ evidence, and shall keep records of all proceedings through taking minutes for each hearing, duly signed, and shall provide a copy to any of the parties requesting it.
Regarding testimony, the arbitral tribunal may call any witness to present a testimony or documents in his/her possession. If a witness refuses to attend, the arbitral tribunal may ask the competent court to compel the witness to appear before the arbitral tribunal on a specified date. If the witness resides outside the court’s jurisdiction, the tribunal can ask the competent court to issue a decision to hear a person delegated by a witness, who lives outside the court’s jurisdiction. Any party may request the tribunal to appoint one or more experts, on the condition that each party shall submit all their information and documents to the expert. Then, the tribunal shall send a copy of the expert's report to each party in order to discuss the expert in front of all parties. If the report is issued by an expert appointed by the tribunal, any party may bring their own expert to express an opinion on the issues addressed in the expert's report. If any of the parties challenges a fundamental document, related to the dispute’s subject, as fraudulent, it shall be required to substantiate its appeal before the competent authority within one week of the date of the assignment. Arbitration procedures are stopped pending a decision regarding the alleged fraud. The arbitral tribunal may decide to require that the parties deposit a sum of money to cover the arbitration expenses that may arise, provided the arbitration agreement states. This clause gives seriousness to the arbitration process.

The second section addresses the legal basis for resorting to arbitration in labor disputes, and its impact on the judiciary in Palestine. The section is divided into three chapters. The first chapter deals with the concept of labor disputes. Labor disputes can be collective or individual. An individual labor dispute is a dispute between a worker and his/her employer regarding the implementation of rights or a claim for additional rights. In Palestine, the labor inspection department of the Labor Ministry has the task of settling labor disputes before resorting to courts. The labor relations department at the Labor Ministry also plays the role of mediator to solve any dispute or disagreement between the two parties. A collective labor dispute is a dispute arising between one or several employer, and workers or a group of workers about a collective interest. The criteria of the existence of a collective interest is what distinguishes between a individual and collective disputes. The difference between a
collective and individual dispute is as follows:

1. A dispute is considered collective if it concerns collective common interests for a number of workers; the dispute may concern the contract conditions or work circumstances, or a modification of the contract or its application. A dispute is considered individual if it concerns one particular worker, or several workers on an individual basis.

2. A dispute is considered individual if its purpose is the recognition or protection of the rights of an individual. If the purpose is the achievement of new rights for workers, the conflict is collective.

3. If the claim is filed by trade unions and its grounds are a collective interest, then the dispute is collective. This concerns any breach of the dispositions of a collective agreement, regardless of the person, who suffered the prejudice. In case of an individual dispute, only the person who has an interest in the observance of the dispositions of a collective agreement can file a claim.

There are several aspects and methods for expressing a labor dispute:

1. Ordinary means and ways: a worker or his/her representatives submit their demands to the employer in an attempt to persuade him/her to amicably meet these demands or improve their situation. This may lead to negotiations with the employer.

2. Extraordinary means or ways: first, workers may declare a strike based on a labor dispute in order to obtain their rights as guaranteed by the basic law and the Labor Law no. 7 of the year 2000. Second, an employer may declare a lock-out (shutdown work or close the establishment or prevent a group of workers from working) to put pressure on workers, who insist on certain demands or refuse the employer’s demands, with the readiness to resume work, when workers accept the employers’ terms. The lock-out can only be temporary and related to a labor dispute, and is subjected to the same conditions as strikes.

Chapter two discusses the legal grounds for resorting to arbitration in labor disputes. This chapter examines how arbitration in labor disputes originated in the United Kingdom and France, as well as in Egypt, and how jurisprudence and legislation in countries are divided between those who support or reject arbitration in labor disputes. Rejection of arbitra-
tion in labor disputes has been justified by the fact that the worker is the weaker party in an employment relationship, and under the authority of the employer when signing a contract, and could only accept such a condition to obtain work.

In some countries, a labor arbitration council is competent for addressing labor disputes and has sole and exclusive jurisdiction in these matters. These countries include France and Lebanon. The arbitration representative is accepted during the trial in front of the Labour Arbitration Council (under penalty of nullity). Labor arbitration councils have wide powers in individual disputes between worker and employers.

In Palestine, compulsory arbitration is stipulated by the Palestinian Labor Law no 7 of the year 2000 as one of the means for solving collective labor disputes. Both parties in a labor dispute have the right to agree on resorting to arbitration to solve a dispute. Article 63 of the labor law stipulated that the Minister of Labor can compel the parties to a dispute to resort to an arbitration committee if conciliation proceedings have been exhausted, if they have not submitted the dispute to the competent court and if the dispute affects public interest.

The question of the arbitrability of labor disputes has been raised in Palestine. The Ramallah Magistrate’s Court has dismissed a request made to the court to refuse a lawsuit for workers' rights under the pretext that there is an arbitration clause in the contract signed between the worker and the employer. The Court considered that this clause is invalid, because the case concern workers’ rights, which is a matter of public order and must be protected and not compromised. It highlighted in its decision that clause was signed at the same time as the work contract, and that in this case the worker is in a position of weakness and accepts any condition to obtain a job opportunity.

After this decision was issued, some supported it and others objected to it. Attorney Ihab Omar issued an article referring to the decision of the Magistrate's Court. He expressed the opinion that it would be false to believe that an arbitration clause inserted in a work contract could be agreed to by a worker without coercion, since the worker is set under pressure by
his need for work and will not pay attention to the contract’s details, except maybe for those concerning wages, insurance against work injuries or vacations. Thus he/she would not pay attention to a clause that would prohibit him/her from resorting to courts in the event of a dispute with the employer.

In response to those, who wonder about the legal basis for the invalidity of the arbitration clause contained in a work contract, considering that the Palestinian Arbitration Law did not explicitly exclude this, Attorney Amro expressed the opinion that labor law issues fall under the scope of public order, because workers are the weaker party and have primary entitlement to protection by the law. He argued that any violation of workers' rights is a violation of a country’s public order, as most of the provisions of the labor law are expressed as compelling rules, although labor law is one of the branches of private law, which mostly consists of complementary rules.

Others held a different opinion, and considered that interpreting an arbitration clause in a work contract as a matter of public order is inaccurate and not consistent with the goal set by legislators in the Arbitration Law. To a large extent, this opinion reflects the Democracy and Workers' Rights Center’s position and policy in dealing with labor disputes. Dr. Naim Salameh provided a number of arguments for his opposition to the inadmissibility of arbitration in labor issues as a matter of public order, as follows:

1. It is possible to resort to arbitration in labor disputes, since the Palestinian labor law has not prohibited it.
2. Resorting to arbitration enables a worker to obtain his/her rights in a short timeframe, and would lead to an increase of investments and the employment of more workers.
3. Arbitration does not mean forgoing the rights guaranteed to the worker and only provides both parties with a swift and easy way for a case to be addressed and in a labor dispute.
4. The Palestinian labor law has clearly allowed settling collective labor disputes through amicable settlement mechanisms, including arbitration. This indicates that an arbitration clause in the collective labor agreements is admissible and not a matter of public order.
5. An arbitration clause in a work contract does not take away the jurisdiction of any court since the Palestinian labor law did not specify special jurisdiction for courts competent in labor disputes. Therefore, it does not take away the jurisdiction of any court. Likewise, arbitration does not deprive any worker of his/her rights, but enables him/her to claim such rights in a short period of time.

6. Arbitration in labor disputes is an advantage for workers. An agreement to resort to arbitration does not deprive workers of their rights, since arbitration is a special and optional tribunal created by the two parties voluntarily to resolve their dispute. The arbitral tribunal or arbitrator or arbitration institution are undertaking the judges tasks in examining the dispute brought before them, and issue a ruling that is binding for both parties. The aim of arbitration is to save time for both parties, and respect their will, and enable them to settle their disputes in the most convenient ways. Thus, arbitration is an exceptional way for solving disputes and not contravene public order.

7. There is no provision in the Labor Law determining that specialized labor courts have to handle labor dispute, which is a requirement, and thus no court has sole jurisdiction. The labor law also lacks a provision for speeding up the resolution of labor disputes. Labor cases are treated like other civil disputes, which take a long time in ordinary courts.

8. One of the reasons that encourage domestic and foreign investment is the feeling among investors that the mechanism for solving disputes is quick and easy, and this is achieved by arbitration. Thus, resorting to arbitration in labor disputes would encourage domestic and foreign investment, and this would lead to an increase of economic growth.

9. One of the reasons that encourage domestic and foreign investment is the feeling

10. There are a number of qualified arbitrators in Palestine, who can handle different kinds of disputes, and who are accredited by the Palestinian Ministry of Justice under clear terms and criteria according to the law and regulations; there are also a number of eligible institutions operating in this field.

11. Arbitration is not free of charge for the parties to the dispute, which would lead to a reduction of malicious claims that are filed against employers.
12. Arbitration in labor disputes has become an urgent necessity, due to its positive effects for both parties in labor contracts. A proof of this is that cooperation on the subject of arbitration for solving labor disputes was mentioned in a Memorandum of Understanding, signed on 03/02/2014 between the Palestinian Federation of Chambers of Commerce and the General Federation of Trade Unions.

In support of his opinion about the arbitrability of labor disputes, Dr. Salameh’s cited the Palestinian Cassation Court’s decision in Case No. 273 /2011, which states that arbitration in labor disputes does not fall within the scope of public order mentioned in article 4 of the Arbitration Law. This decision indicates that the Palestinian Court of Cassation has admitted arbitration in labor disputes, which does not fall under the scope of public order, as long as the result of the arbitral award does not violate the law.

The third section addresses the role of arbitration as an alternative mechanism to the judicial system in labor disputes, and its impact on the judicial situation in Palestine.

In Palestine, the judicial system lacks specialized labor courts and/or procedures to facilitate litigation in labor disputes. Judges assigned labor cases are not specialized in these cases, but have to handle diverse issues, and this leadsthem to postpone cases for long periods. Palestinian courts are not compelled to ensure a swift resolution of labor cases despite repeated calls to the authorities to address this matter. All workers complain from the length of proceedings in labor cases, and fear bringing cases before the courts. Instead, they resort to waiving many of their legal rights and entitlements in order to avoid waiting for many years, sometimes up to five years, in order to obtain some of their rights and compensations. The situation is different in other countries, as many countries determine a period of not more than six months to consider labor cases before the Court of First Instance and the Court of Appeal. In addition, judges may be transferred every judicial year, thus the same case may be assigned to a several judges over the years, requiring each of them to study the case a new.
Not only do Palestinian workers face long delays in obtaining a judicial decision in labor cases due to the absence of labor courts and backlog of cases, they also face issues in collecting the amounts that have been awarded them by court decisions, as these can be divided into many small installments to be paid over long periods.

The fact is that the private sector, which is an important sector for the growth of the national economy and employs an ever growing number of workers, urgently requires specialized labor courts to solve labor disputes in a manner that guarantees that workers can obtain their rights.

Arbitration is a main supportive pillar for the judicial system and can strengthen it. Arbitration enjoys features and advantages that outweigh ordinary courts, but we cannot consider that arbitration and the judiciary operate in parallel without any relation among them. On the contrary, there is a collaborative relationship between the judge and arbitrator, as the judge assists the arbitrator and monitors his verdicts without jeopardizing the independence of the arbitrator and his powers according to the Palestinian Arbitration Law. The judge has the competence to ensure abidance with and implementation of the arbitral award, and stop any parallel action or lawsuits before the courts. According to the law, the judge provides legal advice to the arbitrator if so requested. If the parties cannot agree on the appointment of arbitrators, then the court shall appoint an arbitrator. In counterpart, the law compels arbitrators to respect the legislation in force and public order. He also has to respect the arbitration agreement, without exceeding the powers granted to him under this agreement between the parties to the dispute. The arbitrator must, as judges, observe the principles of justice, equality and neutrality during the arbitration proceedings and in dealing with the parties to the dispute.

Arbitration came to alleviate the crisis caused by the backlog of cases in Palestinian courts and litigation procedures due to the slow pace of litigation before the courts and its high cost. In comparison, arbitration is considered as a quick and inexpensive. Through arbitration, the parties can choose the arbitrators and resort to persons, whose competence, integrity and impartiality they trust for resolving the dispute. Parties can determine
the arbitration proceedings to a large extent. In addition, arbitration allows for confidentiality of the proceedings, which may often be preferred over conflict and public procedures before courts. Confidentiality may play an important role in ensuring the continuation of the transactions between the parties after the issuance of the arbitration award. Moreover, the parties can specify the timeframe for settling the dispute. The arbitration award, if passed, is binding and final, which leads to reducing the period during which the dispute remains standing to a large extent. Arbitration has become one of the most viable means to resolve and adjudicate disputes between individuals. In the case of labor disputes, it could be of utmost importance to resort to arbitration due to the importance of solving these disputes swiftly to redress the damages suffered by the worker concerned in the dispute, especially since workers’ rights have a privileged standing by law.

Considering the situation of the judicial system in Palestine, we believe that resorting to arbitration is important for the following reasons:

1– While an arbitral award has the same value as a decision issued by a judge, arbitration may take place in better conditions and circumstances than proceedings in court, involve lower costs, more flexible and rapid procedures. In addition, whereas judges are not specialized in labor cases, arbitrators are chosen for their expertise in the dispute that is presented to them
2– Parties may wish to reach a solution in a labor dispute that is acceptable to both parties and does not jeopardize future relations; a worker often spends many years with the same employer, creating social relations and common interests they may want to preserve
3– Parties may wish to address a disagreement before it becomes a dispute; thus it cannot be brought before a court. For example, this may concern a request to review the terms of a contract or update or modify it based on changes that have occurred
4– Arbitration allows submitting disputes to persons that have the confidence of the parties instead of submitting them to a non-specialized court, so that they may benefit from the practical and technical experience of the arbitrators and avoid public hearings, in addition to saving time and costs
We can summarize the importance of resorting to arbitration and its impact for the judiciary as follows:

1- **Specialization and technical expertise**: when parties to a labor disputes choose arbitrators, they are free to choose persons with the relevant expertise and qualifications, whereas such expertise in not guaranteed in ordinary courts in the absence of labor courts or judges specialized in labor cases. Arbitrators are not required to have legal qualifications, however they must have high expertise in a certain field. Furthermore, a final arbitral award may require an arbitrator well-versed in legal issues.

2- **Effectiveness**: this is ensured by the broad freedom enjoyed by the parties in the field arbitration, i.e. in choosing arbitration proceedings, selection of arbitrators and their number, specifying the duration of the arbitration proceedings and other matters. This freedom allows the parties to choose arbitrators according to their experience and specialization in the matter of the dispute, which achieves effectiveness in resolving the dispute, unlike ordinary courts, where the parties have no role in the selection of a judge.

3- **Speed, simplicity and flexibility of procedures**: these are the most important features that distinguish arbitration from ordinary courts, as arbitrators are dispensed from observing the many formalities that burden court proceedings. Arbitration in this case is an appropriate alternative for the resolution of labor disputes as an arbitral award must be rendered within the period of time specified in the agreement between the parties, and shall the parties fail to this, the law determines it.

In addition, arbitration does not adopt the principle of litigation at two levels as is the case in ordinary justice. This saves time, although this does not mean rushing to issue a decision as some basic principles of litigation may not be violated. Arbitration is characterized by the simplicity of procedures and the exclusion of non-important formalities, as well as speed and effectiveness in resolving the dispute. The arbitrator must follow the procedures determined by the parties. If such procedures are not specified, then the arbitrator shall choose to apply flexible procedural rules that suit the nature of the dispute. In all circumstances, the arbitrator
has to respect the peremptory norms, public order and basic guarantees of litigation in the event of an arbitral tribunal has been authorized to seek conciliation between the parties to a dispute.

4– **Confidentiality:** arbitration is confidential whereas proceedings in ordinary courts are public. An arbitral award can only be published with the approval of the parties to the arbitration procedures or by decision of the competent court. Sessions during the arbitration process are not public, except upon agreement of the concerned parties.

5– **Preserving future relations among the parties to the dispute:** courts apply the law without taking into account any prejudice that may occur to the interests of the concerned parties. Whereas a judicial decision may be just from a legal point of view, it may not constitute an adequate solution, especially if the judicial proceedings take a long time and both parties wish to remain in good terms in the future. A decision reached by an arbitrator invested with the trust of both parties and acceptable to them may be preferable in certain cases.

6– **Lower cost than ordinary judiciary:** the advantage of arbitration is that the parties are free to choose arbitrators with experience and competence in the field of the labor dispute, thus sparing the expenses of additional expertise. Arbitration cannot be considered as inexpensive, and its cost may be one of its disadvantages. However, resorting to the judicial system in Palestine cannot be considered as free of charge either. Although labor issues are exempted from payment of court fees according to the Palestinian Labor Law No. 7 of 2000, there may be costs attached to the labor dispute based on the nature of the claim. Any dispute concerning overtime hours requires the payment of fees, since this matter is not covered by the exemption. Furthermore, one needs to take into account that workers have to pay attorneys' fees and expenses, and may need to follow-up with them for many years, which entails communication and transportation costs.

7– **Alleviating the burden on the judiciary:** the Palestinian judicial system is burdened by a huge number of pending cases, especially in the field of labor disputes, and this due to several reasons: the large number of conflicts and violations of rights in workplaces, in addition to the lack of specialized labor courts or specialized judges to consider labor issues
as mentioned above, as well as constant transfers of judges in the courts system. Arbitration can thus have a direct positive effect in decreasing the judiciary’s case load.

In addition, we would like to stress that many workers are in fact aware of the difficulties entailed in obtaining their rights in a timely manner by filing a lawsuit, and thus prefer resorting to alternative mechanisms for solving labor disputes, including through reaching a negotiated settlement. The study provides some examples.

Despite the many advantages and positive aspects of arbitration, little use of this mechanism is made for solving labor disputes in Palestine, and there is low awareness of it, due to:

1- Lack of awareness among individuals about the role of arbitration and its contribution in solving disputes; awareness-raising on part of the Ministry of Justice and arbitration centers is weak
2- There is weak confidence in the power of arbitral awards, and abidance with them by the judiciary and related institutions
3- Judiciary institutions do not respect the arbitrators’ decisions in most disputes, although they have been officially assigned by judges, leading to a loss of confidence in arbitration and giving the impression that resorting to arbitration is a waste of time.
4- The parties to the dispute believe that arbitral awards are non-binding, and that the party against which the decision has been issued, can repudiate it
5- Judicial institutions do not have confidence in the arbitrators accredited by the Ministry of Justice for several reasons, most of which may correspond to the reality:
   a. Weakness of the practical and scientific experience of accredited arbitrators; this is due to the weakness of the measures stipulated in the arbitration system that emanated from the arbitration law about how to grant a certificate to the applicants, and the lack of a training system for arbitrators
   b. Lack of trust in the full neutrality and impartiality of arbitrators due to the lack of a monitoring and control system for arbitrators
c. The absence of a complementary relationship between the Supreme Judicial Council and the Ministry of Justice, which led to ignoring the roles and powers of each of them, regardless of the damages caused for the public interest.

d. There is a custom among judicial institutions, according to which judges have the right to refer to the persons and expertise they see fit, and who are not listed among accredited arbitrators, i.e. leading to the belief that a judge has discretionary powers in such matters.

In this study, we came to the conclusion that arbitration is an exceptional way for resolving a dispute, which depends on the will of the parties to the contract or the nature of the dispute. They shall appoint an arbitrator or more, whose mission will be to adjudicate their dispute. The decision awarded by the arbitral tribunal is final and binding according to the rules or the law that are invoked. Concerning the legal value of arbitral tribunal’s decision, an arbitral award is a formal document in all matters that have been adjudicated through it. It cannot be challenged or appealed except on grounds of fraud. The validity of this document is towards all and concerns all matters that have been addressed by the arbitral tribunal or have been signed by the parties before it. An arbitral award acquires a formal character, whether the arbitration was by law or by conciliation, as long as the arbitral tribunal has abided by its mission. The final arbitral award arranges all implications in the same manner as a judicial decision, with the exception of the executive aspect that acquired by the arbitral decision only after it has been approved by the competent court in accordance with the procedures set forth in the law and to recognize the arbitral decision.

Disputes between individuals cannot always be solved through the public authority of the State (the judiciary), but can also be solved peacefully by other means, including arbitration. Arbitration is a sound tool that is not based on resolving a dispute through a decision imposed by public authority from above, but through individuals’ compliance with the opinion of a third party. Arbitration also distinguishes itself from other types of settlement mechanisms by its existence as a contract or an arbitral award upon the issuance of an arbitral ruling, which adjudicates all mat-
ters brought before the arbitral tribunal. Arbitration distinguishes itself by being a private tribunal that often results in the issuance of an agreement, because it arises from the free will of the parties, and then the arbitrator undertakes his mission as a judge. The decision issued by the arbitrator has the same power as a decision issued by the judge. In relation to arbitrability of labor disputes from a legal point of view, and its impact on the judicial situation in Palestine, we have reached the conclusion in this study that arbitration in labor disputes does not contravene to public order and to the laws in force in Palestine. On the contrary, it may reflect positively on the judicial situation in Palestine in general, and would have a positive and clear impact on labor cases submitted to Palestinian courts in terms of alleviating the burden of courts and speeding up the issuance of decisions. In addition, arbitration ensures for Palestinian workers that they have access to a system for solving their disputes with employers that is characterized by its flexibility, speediness and reliance on expert and experienced arbitrators.
Recommendations:

In order to activate and develop the role of arbitration in labor disputes in Palestine, we recommend the following:
• Working to promote arbitration as an alternative way for solving individual and collective labor disputes in order to alleviate the case-load of courts and speed-up the process of reaching decisions to ensure justice
• Increasing the awareness and education undertaken by competent authorities about the question of alternative methods for solving labor disputes, especially arbitration
• Ensuring the availability of arbitrators, with proven expertise, and highly qualified in this field
• Improving cooperation between the institutions that resort to alternative ways of resolving disputes in general, and labor disputes in particular, with the judicial system and the Ministry of Justice in order to create a complementary relationship.
• Promoting increased cooperation between institutions dealing with alternative mechanisms for solving disputes in order to reach common goals that are consistent with the priorities and needs of individuals
• Urging the labor inspection department at the Ministry of Labour to educate workers about alternative methods for solving labor disputes—during their inspection visits, especially arbitration
• Working on integrating alternative mechanisms for solving disputes in academic curricula to ensure that the next generation will be familiar with and aware of this topic
• Learning from the experiences of countries, which are successfully using arbitration in labor disputes, and taking advantage of their expertise.

• Monitoring the institutions that deal with arbitration and rely on external financing, regarding their application and respect of domestic legislation, and ensuring that they are not subjected to any forms of “conditional funding”

• Developing a system for training and development in all fields of arbitration and arbitrators

• Developing an effective monitoring and accountability system for arbitration that will be run by the Ministry of Justice and relevant institutions