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## **The Concept of Legal Personality of Public Limited Companies**

### **in Pursuance of Company Legislation Operative in Palestine**

The Various legal systems have acknowledged the legal personality of public limited companies capable of acquiring rights and being subject to obligations apart from the company's shareholders. The legal personality of these types of companies provides better advantages than the legal personality of other types of companies and partnerships; thus placing the public limited companies, on the economic level, at the top of other types of companies and partnerships. As, this personality lowers a thick veil that conceals the persons constituting the company, it appears to the public as an independent personality that possesses financial responsibilities, legal capacity and a specific nationality. Furthermore, a company's shareholders are not held liable for its debts except to a limited value assigned according to the amount of their shares. They also have the right to transfer their shares, as they deem appropriate.

Despite the significance of recognizing the legal personality of a public limited company as an independent entity, yet many countries, specifically England and France, have become aware that just as the acknowledgment of this independent legal personality has positive impact on the national economy, it could also have an adverse effect. Therefore, this concept has been treated with great circumspection by these countries. Whereas, they recognized the need for respecting the legal personality on the one part, they subjected its formation to strict legal regulations, restricted its legal capacity and ignored the separate personality, on the other.

In Palestine, the legal personality of Public Limited Companies has long been acknowledged. This renders this type of companies the most prominent channel of

investment here. Its functions have been regulated in two different legislations; the first being a legacy of the British Mandate and effective in the Gaza Strip ( Companies Ordinance (No.18), 1929), the other a Legacy of the Jordanian and effective in the West Bank (Companies Law (No. 12), 1964). The latter is a combination of the law operative in Gaza Strip and of the Syrian Trade Law No. 149, 1949 drawn from the French code .

The primary issue raised in this study is the vagueness of the concept of this legal personality under the companies legislations operative in Palestine. Moreover, the legislative combination of civil and common law countries which created the 1964 Law has posed a question concerning the existence of a consolidated concept of the legal personality for the Gaza Strip and the West Bank.

The study has sought to find answers to the following questions: What is the background for acknowledging the legal personality? What are the advantages of acquiring it? What are the standards for controlling its formation? What are the limits of respecting its independence ?

An overriding aim of this study is to illustrate the meaning of this legal personality in Palestine. Throughout the study, emphasis has been given to the aspect that reflects the apprehension about its existence, which in turn necessitates regulating its formation, restricting its legal capacity and lifting its veil . Furthermore, it has aimed at evaluating this concept in terms of its possible future in the context of Palestine.

In order to achieve the objects of the study, the primary methodology that has been adopted has depended on the analysis of legal provisions, resort to court decisions and comparison with modern company legislation.



The study begins with an introductory chapter which presents the historical background for the acknowledgment of the legal personality as well as the distinctive advantages resulting from its acquisition. The next two chapters review the requirements for the formation of the legal personality, restrictions on its legal capacity and instances of lifting its veil.

The conclusion presents the deductions and recommendations drawn from the study. These could be summarized by stating that in Palestine, there is a consolidated concept for the legal personality. This general framework however does not go beyond that which is found in the legislation of those countries whose companies legislation had an effect on the legislation in Palestine .

The consolidated concept of the legal personality, within its general framework, is appropriate to be used in Palestine now , yet, the study has indicated that the development of modern companies' laws tend towards reevaluating the advantages resulting from the acquisition of the legal personality, so that, when proposing a consolidated developed company law for Palestine, it is advisable to merge the contents of the two laws in a manner that insures subjecting the formation of the legal personality to strict legal norms, restricts its legal capacity in a way that maintains a balance between the rights of shareholders and third parties dealing with the company and increases the instances in which the legal personality can be disregarded.

Furthermore, the study recommends that the Palestinian Judiciary should as a rule look upon the legal personality as a separate legal entity . However, in case the legal entity is used to defeat public interest, justify wrong, protect fraud, or defend crime, then the veil should be lifted in order to see the facts hidden behind it.