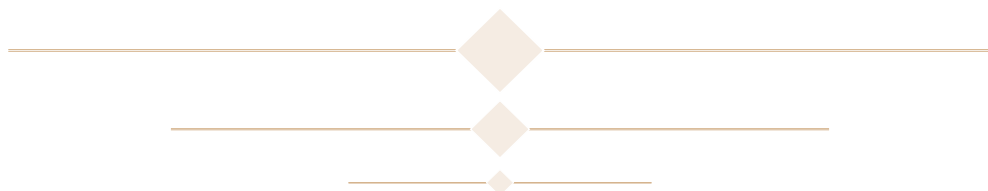


and that the Prophet (peace and blessings be upon him) adjudicated cases based on the testimonies of two witnesses without checking their integrity and that he adjudicated cases based on the testimony of a witness and an oath. Checking the integrity of witnesses only appeared in judicial regulations that were enacted during following Islamic ages.



## Judicial Training: Its Importance, Actual Reality and Future

**Sheikh Umar bin Naseer Ash-Shareef**

Member of the Ninth Administrative Division and Member of the Seventh Disciplinary Division of the Administrative Court in Jeddah

This paper is designed in six topics as follows:

Introduction,

Judicial training (a picture from the inside),

Judicial training (steps towards action),

Judicial training (organization and responsibility),

Judicial training (practical applications) and

Future of judicial training.

---

## Integrity on the Part of a Person who have never been subject to Suspicion

**Abdur-Rahmaan bin Abdul Azeez Al-Husaynee**

Judge at the General Court in Jeddah

The author states that checking the integrity of witnesses was not applied at the time of the Prophet (peace and blessings be upon him)

The third chapter tackles the morals and manners that the lawyer should adopt with regard to litigation in the Islamic jurisprudence and the law. This chapter is divided into three topics as follows:

The morals and manners that relate to the lawyer's work and profession,

The morals and manners that relate to the lawyer's dealing with his authority or syndicate, and

General morals and manners that the lawyer should comply with.

## Rulings on Defences in Criminal Lawsuits

**Shaakir Ali Al-Shihree**

*Member of the General Investigation and Prosecution Commission, Riyadh*

The author divided this paper into six topics as follows:

Definition of defence,

Sharee'ah and legal fundamentals of the right to defence,

Types of defences,

Conditions of defence,

Implications of defence, and

Burden of substantiation on part of the defence.

The first topic discusses the sources of the Islamic international human law.

The second topic covers the general principles of the Islamic international human law which include human dignity, justice, mercy, respect of covenants and promises and equal treatment.

The third topic delineates on the most important characteristics of the Islamic international human law including divinity, universality and morality.

The conclusion lists the most important conclusions reached by the author.

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## **Duties, Rights and Ethics of Lawyers in the Islamic Jurisprudence and the Law**

**Sheikh Hammaad bin Abdullah Al-Hammaad**

Notary Public, 2<sup>nd</sup> Notary Public Division, Riyadh

The author divided this paper into an introduction and three chapters as follows:

The first chapter discusses the duties of the lawyer with regard to the litigation in the Islamic jurisprudence and the law.

The second chapter discusses the rights of the lawyer in the Islamic jurisprudence and the law.

## Collective and Individual Adjudication of Cases in the Saudi Law of the Judiciary

### Researcher in Judicial Affairs

The author divided this study into five topics as follows:

It is desirable for the judge to consult people of knowledge and wisdom.

The ruling on several judges sharing jurisdiction and judgment.

Comparison between the individual judge and several judges systems.

The position of the Saudi Regulator on the individual judge and several judges systems.

Is it a condition that all members of the judiciary are legally qualified?

## Islamic International Human Law (Sources, Principles and Characteristics)

### Dr. Mahmoud Abdullah Bakheet

Associate Professor, Faculty of Sharee'ah, Jarash University, Jordan

This paper comprises an introduction, three topics and a conclusion.

The introduction provides the definition of the Islamic international human Law.

Islamic jurisprudence and the law, the difference between moral harm and financial one, substantiation of harm and the fields where harm may take place during litigation.

The second topic delineates on guarantee and compensation in the Islamic jurisprudence and the law, forms of guarantee for the harms that litigants may incur.

## Arbitration in Administrative Contracts in Saudi Arabia

**Dr. Khaalid bin Abdullah Al-Khudhair**

*Judge at the Board of Grievances in Riyadh*

The author divided this paper into three topics as follows:

The first topic discusses the ruling on resorting to arbitration in administrative contracts in the light of the Arbitration Law issued by Royal Decree No. M/46 dated 12.3.1403 AH.

The second topic tackles the ruling on resorting to arbitration in administrative contracts in the light of the provisions of the Law of the Board of Grievances and arbitration resolutions.

The third topic delineates on the preliminary approval of arbitration in administrative contracts.

other than the culprit.

The ninth topic states that the punishment should be applied gradually.

The tenth topic notes that balance should be realized between the punishment and the crime.

The eleventh topic states that balance should be realized between the punishment and the criminal.

The twelfth topic discusses consideration of the implications of the punishment.

The thirteenth topic revolves around the consideration of differences between crimes and criminals.

## Guarantee of the Harms Resulting from Litigation

**Dr. Naasir bin Ibraheem Al-Muhaimeed**

*Chief of the Court of Appeal, Chairman of Judicial Inspection and Juristic and Judicial Expert in the Arab League*

The paper includes an introduction and two topics.

The introduction defines guarantee, compensation, harm, litigation and the other elements of the title.

The first topic discusses the types and conditions of harm in the

## Measures for Estimating Discretionary Punishments

**Abdullah bin Muhammad bin Sa'd Al-Khuain**

Member of the Senior Scholars Commission, Member of the Permanent Commission of Research and Fatwaa and Ex-judge at the Appellate Court in Riyadh

The author divides this paper into a foreword, an introduction, thirteen topics and a conclusion.

The introduction elaborates on the legitimacy, objectives and types of discretionary punishments based on different crimes.

The first topic discusses the legitimacy of the discretionary punishments.

The second topic states that the discretionary punishment should not amount to the textual punishment for crimes of the same type.

The third topic states that the punishment should conform to the crime.

The fourth topic states that the discretionary punishment should realize its objectives.

The fifth topic tackles the subject of security against injustice.

The sixth topic states that the punishment should be, as much as possible, of the same type of the crime.

The seventh topic indicates that the discretionary punishment should be of the same type of the textual punishment for the same type of crimes as much as possible.

The eighth topic states that the punishment should not extend to



# Alqadhaiyah Journal

## Transferring the Burden of Substantiation in Cases of Aggression and Negligence in Investment Speculation and Agency to Trustees

**Prof. Dr. Nazeeh Kamaal Hammaad**

*Ex-Professor of Islamic Jurisprudence and Jurisprudence Fundamentals,  
Faculty of Sharee'ah, Um Al-Qura University, Makkah Al-Mukarramah and  
Current Legal Expert and Consultant for Several Islamic Financial Institutions*

This paper consists of a foreword, an introduction, two topics and a conclusion.

The foreword discusses the problem of the study.

The introduction tackles the concept of and the ruling on trust.

The first topic states that the basic rule is that the statement of the speculator and the agent appointed for wage is the one that should be accepted with regard to denying assuming the guarantee.

The second topic covers the Sharee'ah based conditions for transferring the burden of substantiation to speculators and agents appointed for wage.

The conclusion lists the most important conclusions of the study.



# Al-Qadhaiyah

A refereed academic journal concerned with modern judicial researches and studies published by the Ministry of Justice in the Kingdom of Saudi Arabia

## Correspondence:

All correspondence should be sent in the name of the

Editor-in-Chief of

Al-Qadhaiyah Journal to the following address:

Kingdom of Saudi Arabia  
Riyadh, Ministry of Justice

Postal Code: 11137

Telephone and Facsimile:

014032741

MoJ Exchange:

01457777, Ext. 1581

Interactive Telephone:

014025251

E-mail:

ALQADHAIYAH@GMAIL.COM

Website:

WWW.MOJ.GOV.SA

Alqadhaiyah Magazine publishes abstracts of the articles contained in this issue

Chief of Supervising Board

*H.E. Dr.*

*Muhammad bin  
Abdul Kareem Al-Eisaa*

Minister of Justice

Editor-in-Chief:

**Sheikh Yusuf bin Abdul Azeez Al-Farraaj**

Judge at the Ministry of Justice

Editing Director:

**Muhammad bin Rashid Al-Dubayyaan**

# قواعد النشر

## يُشترط لنشر الدراسات والبحوث في المجلة :

- ١- أن تكون البحوث والدراسات في إطار ما تمنح به المجلة .
- ٢- أن يتسم البحث أو المقال بالأصالة .
- ٣- أن يتسم البحث أو المقال بالنهج العلمي في البحث والإسناد الموضوعية على أن تكون الهوامش متسلسلة الأرقام إلى نهاية البحث .
- ٤- أن يكون البحث أو المقال صحيح اللغة قوي الم أسلوب .
- ٥- أن يقدم الباحث بحثه بمعلومات شخصية عن نفسه تتكون من اسمه تاريخياً ومعلومات عن تحصيله العلمي والمؤلفات والبحوث التي أعدها وعمله الحالي وأرقام هوائيه .
- ٦- يجب ألا تتجاوز صفحات المادة ثلاثين صفحة حجم A4 وأن يكون طبعاً أو مكتوباً بخط واضح .
- ٧- يرفض بالمادة ما يخص لها في حدود صفحتين .
- ٨- ألا يكون قد سبق نشرها في مكان آخر أو تكون مقدمة للنشر في طبعة أخرى .
- ٩- تخضع البحوث المحكمة في المجلة إلى تحكيم لجان علمية أكاديمية متخصصة وفق المعايير المتبعة .
- ١٠- يجب أن يرفع البحث بالوعاء الإلكتروني المطبوع منه خلال .



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