

# Republican Decree – By Law No. [13] For 1994 Concerning the Criminal Procedures

The President of the Republic,  
After reviewing the Constitution of the Republic of Yemen,  
And based on the proposal presented by the Prime Minister,  
And after the Approval of the Council of Ministers,

**It is hereby decreed:**

## **Volume One Basic Principles and General Provisions**

### **Part One Terms and Definitions**

- Article 1: This Law shall be called the Law of Criminal Procedures.
- Article 2: The following words and expressions, in this Law shall have the meaning shown next to each one of them unless text indicates otherwise.
- Legal Justification: Includes any documentary support from any applicable effective law that is in force.
- The Plaintiff: [The Claimant to a personal right] the victim or the blood relatives, or legal guardian of the victim of the crime, or any one acting on his behalf legally.
- The Plaintiff Civil: [The Claimant to a civil rights]: All those suffering from a criminal act, whether materially [financially] or morally.
- Person Liable for Civil Rights: The person who is liable for payment of the monetary amounts, which a court rules as compensation payable to those who suffered damages from a criminal act.
- Judge: Any Penal Court Judge and the Judges of the Judicial Tribunal in the Penal Courts, appointed in accordance with the Law of the Judiciary.
- Members of the Prosecution: The General Prosecutor and the lawyers, chairmen and members of the Prosecution appointed according to the Judicial Law.
- Defense Representative: Lawyer authorized to plea or litigate before the Courts, according to the law, or the legal representative of a legal person, or anyone acting on his behalf legally, or any of the relatives of the accused.
- Person: Natural legal persons, or companies, associations, or any group of persons who may not constitute a legal person.
- Public Employee: In this Law it shall include:
- A. Those responsible for public authority, state employees and of the different institutions of the government.

B. The staff of the Judiciary Branch and the members of the Armed Forces.

It also includes members of the General and Local Legislative Branch Houses during the period of their tenure.

Mental Deficiency: This is an illness, which leads to the loss of the mind, or its deficiency or weakness.

The Disqualified [Immature]: this is the minor who has yet to reach the age of “differentiating between case s,” or one who has become disqualified due to a mental disorder.

Guardian/Representative: this includes the Guardian, or legal representative, or agent appointed by court, or the liquidator who earns this title legally, or the legal representative of legal persons, or the agent or deputy.

Public: This includes any assembly of five persons or more, if the intent of this assembly is the engagement in a criminal act, or the initiation of a criminal act that could lead to undermining security.

Report: Bringing into notice of the concerned authority of the occurrence of the incident.

Complaint: An oral or written accusation presented to the Prosecution that a certain identifiable or unidentifiable person has committed a crime.

Investigation Procedures: These are all the measures adopted by the General Prosecution Office while carrying out investigating procedures.

Interrogation: This includes, in addition to directing accusation to the accused, presenting to him the different evidence and the detailed discussions made with him.

Detention Place: It is the place in the Police Precinct where those on temporary arrest are detained pending presentation to the General Prosecution or the Court to deal with his case in accordance with the law.

Seizure: This includes what is carried out by a public authority or a judicial enforcement officer, when suspecting any person, in cases other than those stipulated by Law for the arrest thereof, inquiring about his name, occupation, residence and origin; this also includes accompanying the suspect to the police precinct.

Serious Crimes: These are major crimes which are punished by an absolute penalty or punishment by death or the physical retribution and also all crimes that are punishable by the death penalty or long-term imprisonment beyond three years.

Non-serious Crimes: These are minor crimes that are punishable through blood money, or by compensation for physical injuries, or by imprisonment for a period not exceeding three years or through payment of a fine or penalty.

Strong Evidence: These are case s or substantial elements that are proof, in themselves, for the occurrence of specific incidents.

New Evidence: These are case s which emerge at a later period, and are not presented to the investigators earlier. Their emergence may be coincidental or intentional.

Sufficient Evidence: These are case s that, once proven, the elements available are sufficient to support a decision or a ruling.

Indictment Suspension: The prevention of further proceedings in a case for any legal or material reasons until the cause for suspension has been removed.

Interval Interruption: this is the effect that results from any proceedings for collecting evidence against the accused, or which are notified to him, or the investigation and trial proceedings or the execution of the penalty. The previous interval is accounted for when taking such a measure; the new interval commences from the date of the last measure taken.

Appeal: It is implied by the procedure to take a decision ruling to a court of jurisdiction, with a view towards overturning the decision or amending it according to the provisions of the law.

Final Judgment [or Ruling]: This is the ruling whereby appeals end, or the interval period for presentation of appeals terminated without any objection being filed thereof.

Judgment by Default: This is the decision whereby attempts to present appeals have been exhausted, or the period in which appeals must be presented have ended before any appeals are filed against the ruling.

Preliminary Decisions: These are decisions that provide for carrying out certain measures that reveal the general direction of the opinion of the Court on a particular case. The Court is bound by these decisions, in that it cannot avoid or turn away from their implementation as they entail rights entitled to one of the litigants for whom the ruling is passed in the first place.

The Preparatory Decisions: These are decisions each of which includes the preparation of charges, or the presentation of the evidence of charges without giving any indication of the direction of the opinion of the Court, nor do any rights or entitlements arise thereof for any of the litigating Parties; thus does not bind the Court. Therefore it can evade or turn away from pursuing the decision further if it sees any reason for such action to be followed.

Rejection of Appeal: The formal conditions specifically required by law for making the appeals are not met to make it acceptable.

Non-admissible Appeal: It is an appeal that is lifted in cases that are not specifically admitted by law as reasons for lifting such an appeal, or the appeal is lifted by persons who are not permitted to lift it, or it may include an appeal that is filed for rulings in which appeals are unacceptable.

## **Part Two**

### **Basic Concepts and Duties**

- Article 3: Criminal liability is personal, therefore no person may be summoned for criminal interrogation or questioning except for those acts he personally committed which are punishable by Law.
- Article 4: An suspect person is innocent until his indictment is proven; any doubts are to be interpreted in favor of the accused; no punishment may be ruled only after a trial executed in accordance with this law, where in the freedom [right] of defense shall be maintained.

- Article 5: All the citizens are equal before the law; no person may be pursued, or subjected to any damages due to nationality, race, origin, language, religious belief, occupation, educational level or social standing.
- Article 6: The torture of any person convicted or charged is prohibited, as well as inhumane treatment, or cause of bodily harm, or harm to morale, for the sake of obtaining an admission of guilt; any statement proven to have been committed by the accused, or any witnesses, under duress through any of these acts, shall be annulled and will not be relied upon accordingly.
- Article 7: 1. Arrests may not be made except in connection with acts punishable by law; must be based on due process of law.  
2. The General Prosecution shall immediately release any person whose freedom has been restricted in violation of this law or who has been placed under provisional arrest beyond the period authorized by the law, or by sentence or by a judge's order.
- Article 8: 1. The judicial enforcement officers, the general prosecution and the Court are compelled to be fully assured/confident of the occurrence of the crime, its reasons, circumstances and of the identity of the accused.  
2. The accused has the right to participate in the confirmation of the truth; he is entitled to present requests to prove his innocence in all the stages of the investigation and the trial; in all cases, they must be proven and investigated.
- Article 9: 1. The right of defense is guaranteed and the accused is entitled to carry on his own defense, as well as he is entitled to be assisted by a representative to defend him, in any of the stages of the procedures of handling criminal cases, including the investigation period. The government must provide for the poor and hard pressed a defense lawyer from the accredited lawyers. The Council of Ministers, based on the recommendations of the Minister of Justice shall issue procedural rules for the regulation of the provision of defense lawyers for the poor and misfortunate.  
2. The Judicial Enforcement Officers, the General Prosecution and the Courts must notify the defendant or his rights with regards to charges he is confronted with and the methods of proof [of his innocence] available to him, and shall all work to safeguard his personal and financial rights.
- Article 10: No Yemeni citizen may be handed over to any foreign authority.
- Article 11: Personal freedom is guaranteed; no citizen may be accused of having committed a crime, nor may his freedom be restricted unless by orders from the concerned authorities in accordance with what is provided by this law, accordingly.
- Article 12: 1. Homes, houses of worship and scholastic seminaries have their sanctity, therefore they may not be monitored, observed, inspected except by an order with cause issued by the General Prosecution in accordance with what is stipulated by this Law; this must be based on a charge precedent to such action directed against a person who resides in the place intended for inspection, such charge being for a crime that is punishable by imprisonment, at least, or for his Participation or if strong

indications are found that he is withholding evidence that is related to the crime. In all cases the inspection order must be for cause.

2. The freedom and confidentiality of postal, wire, or wireless correspondences and of all means of communications are guaranteed according to the Constitution; these may not be controlled or monitored or inspected, or the release of any secret contents thereof, or impeded or confiscated, except in the cases which are laid out in the Law and then only under an order by the General Prosecution or the Court of competent jurisdiction.

Article 13: Anyone who is aware of any person having been arrested without any legal justification or in a place that is not set up for such arrests, shall immediately inform the General Prosecution thereof.

The member of the General Prosecution shall immediately move [to the place of arrest] and release the detainee without any justifiable cause. If the arrest is under due process of Law then he shall be moved to one of the penal institutions. In all cases, report shall be written of the measures that are taken.

Article 14: The right of privacy of any citizen may not be violated, in other than the situations authorized by this Law; any breach thereof shall be regarded as having committed any of the following:

1. Eavesdropping, or recording or transfer of discussions that are conducted in a private place, or through telephone wiretapping, or by any equipment whatsoever.

2. Taking a photograph or transmittal of a photograph of a person in a private place by any equipment whatsoever.

3. Looking at correspondences; letters or telegraphs and the confiscation thereof.

Article 15: No restrictions may be placed on the freedom of the people for assembling or movement, or residence, or passage, except as stipulated by this Law.

Article 16: As an exception to Article 37] the period for indictment in criminal case does not terminate with respect to the crimes that are in violation of the rights of the citizens or their dignity or those which involve the rights of citizens to privacy.

Article 17: 1. The Law of Criminal Proceedings [the Penal Code] is applicable for all criminal acts occurring throughout the territories of the Republic.

2. The laws of Criminal Proceedings are applicable on all Yemeni citizens, as well as the citizens of other countries and those without any citizenship whatsoever.

Article 18: 1. The Law of Criminal Proceedings is applicable immediately after becoming effective with immediate effect on all criminal proceedings for all criminal acts carried out, even if in respect of crimes occurring, or cases presented, or the execution of sentences or rulings prior to the enforcement of this Law.

2. The exceptions to the immediate effect are as follows:

A. If a law is issued that changes the jurisdiction of the Court without deleting this jurisdiction; its date of effectiveness followed the end of the final trial proceedings, then the criminal indictment shall remain under the jurisdiction of the previous court.

B. Without prejudice to the provisions of this Law, the prescribed dates shall remain subject to the legislation under which they are issued.

- Article 19:
1. All procedural acts carried out correctly in accordance with an effective law shall remain standing.
  2. the methods of appeals are subject to the enforced applicable law at the time of the ruling, unless the new legislation is more in favor of the person on whom the ruling is issued, which will give the new legislation precedence for application accordingly.
  3. The rules pertaining to advancements if they are better for the accused for every “statute of limitations” started before it and which is not completed.
- Article 20: All acts, decisions and rulings issued by the Judicial Enforcement Officers, the General Prosecution or the Court in dealing with the concerned persons or entities subject to appeal in the manner prescribed by Law unless otherwise indicated.

## **Part Three The Criminal lawsuit**

### **Chapter One Who is Entitled to File criminal lawsuit**

- Article 21: The General Prosecution has the jurisdiction over the initiation, presentation and implementation in the Court. Such indictment may not be filed by any others except in the cases stipulated in the Law.
- Article 22: The General Prosecution is not permitted to suspend a criminal indictment, or to abandon it, or to interfere in its proceedings, or to rescind it or the ruling issued regarding it, or the suspension of its execution or implementation except in the cases stipulated by the Law.
- Article 23: The General Prosecutor himself or through any members of the General Prosecutor shall proceed with carrying out charges in accordance with the provisions of the Law.
- Article 24: The victim, the claimant of a personal entitlement or a right, the claimant for a civil right is an associate joint litigant with the prosecution in the criminal lawsuit and a litigant in the civil indictment associated with it, if he has any claims thereto.  
The person liable for the civil rights or entitlements shall be considered as a joint litigant of the accused in the criminal lawsuit and the civil indictment associated with it, if he is entered into or he interfered in it, even though no claims are presented to him accordingly.

### **Chapter Two Restrictions on [Filing] Criminal lawsuit**

- Article 25: Criminal lawsuit may not be filed against judges or the members of the General Prosecution, except by permission of the Supreme Judicial Council, based on the request of the General Prosecutor with the notification of the Minister of Justice, in which case the Council shall designate the court that will have jurisdiction in putting to trial the judges and the members of the General Prosecution.
- Article 26: Criminal lawsuit may not be filed against a Judicial Enforcement Officer or a Public Employee for a crime any of them committed while carrying out his job or due to the latter, except with the permission of the General Prosecutor, or anyone delegated for this among the Public Attorneys, or the Heads of the Prosecution. The permission must be issued in the cases involving blood retribution or organic retribution or financial compensation, or in the cases involving libel if the victim presented a complaint and persisted on it.
- Article 27: The General Prosecution may not file charges before the Court except when it is based on complaint filed by the victim or anyone acting legally on his behalf in the following situations:
1. In libel, insults and disclosure of personal secrets, or in the case of insults, threats, in words and in deed, or cause of simple bodily harm, unless the crime occurred to one entrusted with a public servant, during the execution of his duties accordingly or due to such execution.
  2. In those crimes occurring on properties between the direct line relatives, the branches thereof, the spouses or the sisters and brothers.
  3. Crimes involving checks.
  4. In the crimes involving destruction, distortion, damage of private property, or the killing of animals without justification, or unintentional fires, or the violation of the sanctity of the property of others, as well as the situations specified by Law.
- Article 28: If the victims of a particular crime are multiple, it is sufficient to have a complaint presented by one of them; if the accused are multiple member; the complaint is filed against only one of them, it shall be considered as being presented against all of them in legitimizing the investigation of the Prosecution with them.
- Article 29: The right to complain terminates in accordance with the provisions of Article 27 after the passage of four months from the date of the victim becoming aware of the crime, or of it being committed, or the removal of the compulsory excuse which prevented the presentation of a complaint; the right to complain collapses with the death of the victim of the crime.
- Article 30: In all cases, the Law requires that a criminal indictment be filed based on the presentation of a complaint, no investigation may take place in such a case until the complaint has been presented.
- Article 31: Whoever has the right to present a complaint in the cases indicated in Article 27 may withdraw it at any time.

### **Chapter Three**

## **Filing Criminal Lawsuit by the Court**

- Article 32: If the Elementary Court sees in the charges presented to it that there are suspects other than those on whom the charges are being filed against, or that there are other events or facts that are not implicated on them, or that there is a crime that is linked to the accusation presented before the Court, then the Court may refer the case to the Prosecution for investigation and to deal with it in accordance with Part Three of Volume TWO of this Law.  
If a decision is issued to refer charges to another court, the Court may refer it to another Court; if the Court does not act decisively in dealing with the original indictment; it is linked with the new indictment, in a manner that makes their separation unacceptable, the whole case may be then referred to another court.
- Article 33: The Appeals Court, when reviewing an appeal, has the same authority stipulated in the previous article; the referral, in this case may be to the another Primary Court other than the Court which issued the ruling being appealed. In all cases such transfer shall take place through a decision of the Chairman of the Court in accordance with the Law.
- Article 34: The concerned bench which is reviewing a case based on an appeal for the second time in the Supreme Court has the same authorities as outlined in the previous two articles.
- Article 35: The Court has the right, while reviewing a case, if any acts occur which violate its orders, or the respect which it shall be accorded; there is attempt to influence in its judicial decisions, or the witnesses before it with respect to charges under its review to file a criminal lawsuit against the accused in accordance with Articles 32 and 33; to issue its verdict thereof.

## **Chapter Four**

### **The Termination of Charges and its Hearing**

- Article 36: Criminal lawsuit are terminated upon the death of the accused except in the cases involving blood money, or financial compensation for injuries, or restoration of honor, if the death occurred while the suit is being considered; this does not prevent the issuance of a ruling on confiscation, of the times arrested which appeared due to the crime committed, of items that were exposed after the crime are the kind whose production, use, possession, sale of or the exhibition for sale constitutes in itself a crime, even though these items are not the property of the defendant.
- Article 37: The right to hear criminal lawsuit expire with the expiry of the period designated for the hearing unless the law specifically states otherwise.
- Article 38: The right to hear criminal lawsuit expire for the serious or major crimes after ten years has passed since the occurrence of the crime, except in those crimes involving the penalization by equal retribution acts, or where the blood money or wound money is one of the punishments stipulated for the crime. In the non-serious crimes or minor crimes, three years must pass from the date of the occurrence of the crime. All of this



as long as the “statute of limitations” is not interrupted in accordance with Article 40.

Article 39: The suspension of the “statute of limitations” of charges is not effective in criminal lawsuit, on the contrary it is allowed to stand; if the period expires, then charges falls.

Article 40: The Period is interrupted by serious investigation procedures or trial, and also by a penal order, or by serious testimonies if taken against the accused; the new period shall recommence from the date of its interruption; if the procedures are numerous that bring about the interruption of the designated periods, then the period shall become effective commencing from the date of the last procedure or interruption accordingly.

Article 41: If the number of defendants is multiple the interruption of the period for one of them is effective for the remaining defendants as well.

Article 42: The criminal lawsuit may not be initiated; the termination of its proceedings shall be duly effected, if it starts in any of the following situations:

- A. In the absence of the crime.
- B. If the elements of the crime are absent.
- C. The immaturity of the accused for accountability of the crime.
- D. The previous issuance of a ruling in the case that is not subject to any appeals thereof.
- E. The issuance of the ruling on the means of sustaining charges and the ending of all the means for appeal.
- F. The issuance of a general amnesty or a private pardon.
- G. The death of the accused.
- H. The termination of charges by the “statute of limitations”.

## **Chapter Five On Claiming Civil Rights**

Article 43: Everyone who has received damages from a crime has the right to file a civil lawsuit however [the size of its value] by compensating the damages resulting from the crime before the penal courts in order to see to it along with the penal lawsuit.

Article 44: A civil lawsuit may also be begun independent from the penal lawsuit in which case ruling in it shall be stopped until a final ruling has been reached in the penal lawsuit filed before filing it or during its proceedings. The court has the right dived whatever other precautionary urgent procedures necessary to protect the damaged [party]. However, if ruling in the penal case is stopped as a result of the suspect being subjected to a mental disease, the civil lawsuit shall be ruled on.

Article 45: If the court sees fit to include the civil rights claimant, ruling in the penal lawsuit shall be postponed [and] it may decide to postpone looking into the civil lawsuit until after ruling in the penal lawsuit or looking into [each] individually.

Article 46: Civil litigation takes place either in the complaint presented to the General Prosecution or to any of the judicial enforcement officers, or

through notifying the suspect in accordance with the provisions of the Law of Court Procedures.

It is also possible [to allow for civil lawsuit] during the session in which the lawsuit is being examined, if the suspect is present, or else the case is postponed; assigning the plaintiff to notify the suspect of his demands.

If he has previously admitted under this status during investigations, the referral of the penal suit to the court shall include the civil lawsuit

Article 47: If the person receiving the damages from the crime is a minor; has no one to stand in his place [sic] legally, the general prosecution or the court before which the penal lawsuit is presented may assign for him a representative to litigate on the civil rights on his behalf.

Article 48: The civil lawsuit for the compensating damages shall be filed upon the crime's suspect if he is adult or the person representing him if he is a minor; if there is no one to represent him, the court may assign someone to represent him or may be content with his representation by the General Prosecution.

Civil lawsuit may also be filed against those responsible for civil rights as a result of the suspect's action; the General Prosecution may include those responsible for civil rights even if the case has no claimant for civil rights to pass judgment on them with regards to expenses due to the government.

Guarantee lawsuit shall not be filed before courts in penal cases nor shall anyone else be included in the case other than the claimant for penal rights, nor including in the case anyone other than the defendants in the civil rights and those responsible for it and those with whom security is deposited.

Article 49: The person responsible for civil rights has the right to intervene at his own initiative in the penal lawsuit in any of its states; the General Prosecution the civil right claimant may have the right to protest the admission of his intervention.

Article 50: The civil right claimant must identify a home in the country where the court is situated unless he is resident thereof; this shall be through a report in the Secretariat department; a more preferable way [of handling the matter!] is by handing the papers to him to hand them over to this department.

Article 51: The civil right claimant shall pay the judiciary fees and shall deposit the security, which the General Prosecution or the court shall estimate in order to meet expenses and costs for experts and witnesses and others; he shall also deposit the complimentary security, which may be required during the due course of procedures.

Article 52: The suspect as well as the responsible for civil rights and the General Prosecution shall have right to protest during the session the admission of the civil rights claimant if the civil lawsuit is unjustified or inadmissible; the court shall rule on the objection after hearing the litigants.

Article 53: The resolution issued by the General Prosecution during investigation shall not prevent from not [sic] admitting the civil right

claimant to adjudicate in a civil proceeding after that before the court.

The resolution issued by the court regarding the admission of the civil lawsuit shall have no bearing on annulling the procedures not joint in by the civil right claimant before that.

The resolution issued by the General Prosecution regarding the admission of the civil lawsuit shall not be committing to the court before which the case is being adjudicated.

Article 54: The civil lawsuit may be filed upon the person with whom security is deposited to compensate for damages arising from a crime before the court which is looking into the penal lawsuit; All provisions relating to the person responsible for civil rights shall apply upon the person with security is deposited in accordance with this law.

Article 55: The civil lawsuit expires with the passing of the period specified in the Civil Law for not hearing the case. However, the civil lawsuit shall not expire as a result of violations of the provisions of Part Two of this Law with the relations to the protection of the liberties of citizens.

Shall the penal lawsuit expire it is filed for one of the special reasons pertaining to it, it shall have no effect on the proceeding of the civil lawsuit with which it is filed.

Article 56: The claimant in a civil lawsuit may drop his case in any state of the case; he shall be obliged to pay the previous expenses without prejudice to the right of the suspect in compensations, if so qualified.

Article 57: Abandoning the civil lawsuit shall have no consequence in annulling the penal lawsuit or suspending it due process except in the cases so stipulated in the law.

Article 58: The none-attendance of the plaintiff before the court without a legitimate excuse and after he has been notified by his person or not sending a deputy to represent him shall be considered an abandonment of the case.

Article 59: If the civil rights claimant abandons his case during the examination of the penal lawsuit, he may file in independence [sic] unless he explicitly conceded the right, which is the subject of the case.

Article 60: The abandonment of the civil rights claimant of his claim or his not accepting a civil rights claimant shall have the consequence of removing the person responsible for civil rights claimant from the case if his involvement came as a result of a request from the civil rights claimant.

Article 61: If the person receiving the damages from a crime files his lawsuit through a request for compensation to the court while the penal lawsuit is filed following that, he may, if he has abandoned his earlier lawsuit, to file a civil lawsuit before the court that is looking into the penal lawsuit; he shall need not in this case renew his lawsuit before the civil court unless the penal court so decides.

Article 62: The measures taken to rule decisively in the Civil lawsuit attached to criminal lawsuit are those provided for indictment this Law.

Article 63: The defendant may sue the plaintiff for civil rights in Court for the compensation of damages suffered due to the civil suit filed against him if there is legal pretense.

## **Volume Two Pre Trial Proceedings**

### **Part One General Provisions For Pre-Trial Proceedings**

#### **Chapter One General Provisions on Summons To Attend**

Article 64: The Court and the General Prosecution may issue, each of them according to the conditions and as per the authorities bestowed upon them, an order for attendance ["Summons"] to anyone, if this is necessary for the investigation or questioning.

Article 65: The Summons shall be based on a written order in duplicate which shall include the name of the person being ordered to attend, his residence, occupation, the purpose for the Summons, date of issue of the Summons, the date of attendance and the signature of the official ordering the attendance and the official stamp.

Article 66: The Summons is notified by the "Summons" personnel or the Police or any other public authority personnel; a copy of the Summons shall be handed to the person for whom the summons is intended, if this is not possible, then it shall be handed to anyone residing with the person being summoned, among his relatives, in-laws, or dependents; the recipient shall sign the original of the Summons. If none of those mentioned could be found, or if they refused to sign the copy of the Summons it shall be handed over after having obtained the signature of two witnesses on the original indicating accordingly to the Manager of the Police Precinct in the area of residence of the person for whom the Summons is intended, or to the "Elder" of the village.

Article 67: The deliverer of the Summons shall return the original of the Summons signed by the person it is intended for, the recipient, if other than the latter or the two witnesses; it shall show the measures taken and all other details which the official ordering the Summons would be interested to know the time and place of notification and the method so notified, thus to be held as testimonial proof, until otherwise proven differently.

Article 68: If the summoned person did not abide by the Summons to attend on the appointed date thereto, the Investigator may issue an order for his compulsory attendance, whether the person so summoned is the defendant, plaintiff or witness.

The person may be sentenced based on the request of the official ordering the Summons the punishment ruled to witnesses who do not abide by Summons' issued to them, despite his notification thereto,

without any acceptable excuse, after having allowed the latter to defend himself as appropriate.

Article 69: The official ordering the Summons may request the person to attend again, if he saw the necessity for another attendance, in which case the witness shall be notified of the appointment for his next requested attendance, such being recorded in report duly signed by the witness and the official requesting this second presence. If the person so summoned does not attend, the provisions of the previous article shall be applied on the witness.

## **Chapter Two**

### **General Provisions For Arrests**

Article 70: Arrest is seizing a person and bringing him in to Court or the General Prosecution or to the Judicial Enforcement Officers in the situations set out by the Law; this shall be based on an order issued by the arresting official who is duly authorized, whether legally or orally, if the ordering person is present in front of him. The order would entail that the person being so arrested is deprived of his freedom until his case is dealt with.

Article 71: The arrested person is detained in a separate place other than the place designated for those to whom sentences have been passed; is dealt with as an innocent person; no bodily or mental harm shall be brought on him in order to extract a confession or for any other purpose.

Article 72: The order for the arrest shall be written and signed by its issuer; the order may be verbal, but it shall be executed in the presence of the ordering official. The arrests in the other cases are the responsibilities of the arresting official.

Article 73: The person being arrested shall immediately be informed of the reasons for the arrest; he is entitled to look at the order for his arrest and he has the right to contact anyone he feels he shall notify of the case; he is also entitled to seek the assistance of an attorney.  
He shall also be quickly notified of the charge he is confronted with, accordingly.

Article 74: The Arrest Order is canceled after three months of issuance, if it is not executed, unless it is renewed.

Article 75: All orders for the arrest of persons, duly issued within the limitations of the Law and fully complying with the conditions for their proper issuance shall be effective throughout the Republic and its territories, ships and aircrafts which carry its flag; the detaining officer may be assigned to execute the arrest outside the area of jurisdiction. If the arrest is made outside his area of jurisdiction, the detaining officer must present the person thus arrested to the responsible General Prosecution of jurisdiction, for the latter to take the appropriate action he sees fit in such a situation.

Article 76: Anyone who is temporarily arrested, due to being suspected of committing a crime shall be presented to the Judiciary within 24 hours from the time of the arrest at most. The Judge or the member of the Prosecution shall advise him of the reason for the arrest and to

interrogate him and allow him to make his defenses and protests; they shall also issue an order with cause for his provisional arrest, or else release him.

Article 77: When anyone is arrested for any reason, anyone selected by the person so arrested must be notified immediately of the arrest; this is also the case whenever every judicial order is issued for the continuation of the detention of the person. If the selection could not be made by the detainee, then his relatives or anyone who may be concerned shall be notified.

Article 78: If an arrest order is issued without designating the detaining officer, then the Police or the Judicial Enforcement Officers shall implement it accordingly.

If someone specific is assigned to make the arrest, then only that person shall execute the arrest unless it is done by someone the detaining officer had sought the assistance of in implementing the arrest but with the presence of the designated detaining officer. When necessary, the designated police officer, may refer the order to a fellow policeman for implementation, if such referral is in writing and signed by the designated officer.

Article 79: The detaining officer can use all the force necessary to make the arrest and to overcome any resistance from the person to be arrested or any other person; such force shall not exceed the force that is reasonably required to prevent resistance to or escape from arrest; the court shall appraise the situation.

Article 80: The detaining officer may enter the house of the person being arrested in order to search for him; he may enter the residence of another person if there is strong evidence that the suspect is hiding there; the owner of the house must provide all the reasonable facilities to the detaining officer to make the search for the suspect; if the homeowner refuses or resists, the detaining officer may enter the house by force within the limitations set out in the previous article.

If women are found in the house all due consideration shall be made to the traditions followed when dealing with them.

This is without prejudice to the provisions of Chapters 3 and 5, Part THREE, Volume TWO of this Law.

Article 81: The detaining officer may search the suspect in order to disarm him and remove anything that could be used to resist arrest or to escape or to inflict harm upon himself or on others; all detained objects shall be handed over to the official ordering the arrest.

If the person being arrested is a woman, then she may not be searched except with the knowledge of another woman in accordance with Article 143].

Article 82: The order for arrest may state that the suspect may be set free if he signs an undertaking to attend [i.e. to be summoned] which shall be attached to a bond if so specified in the order for the arrest, or without a bond. The detaining officer must release the suspect if the conditions, as such, are met by him, and shall submit the undertaking with the bond to the official ordering the arrest.

Article 83: If the order for the arrest does not state that the suspect may be released then the officer carrying out the order must bring the suspect to the official ordering the arrest immediately without any delay.

## **Part Two**

### **Gathering Evidence and Investigation**

#### **Chapter One**

#### **The Judicial Enforcement Officers and Their Duties**

- Article 84: The Judicial Enforcement Officers are considered, in the areas of their jurisdiction, to be the following officials:  
First: The members of the General Prosecution;  
Second: The Governors [of the Governorates];  
Third: The General Security Managers;  
Fourth: The District Administrators  
Fifth: The Police and Security Officers;  
Sixth: The Guards Supervisors, the Police Precinct Supervisors, the Police Checkpoint Supervisors, and otherwise whoever is delegated to take on the role of Judicial Enforcement Officers;  
Seventh: The Village “Elders”;  
Eighth: The Air and Sea Craft Captains;  
Ninth: All [Government] employees who are delegated as Judicial Enforcement Officers in accordance with this Law;  
Tenth: Any other entity assigned to take on the role of Judicial Enforcement in accordance with the Law.
- Article 85: The Judicial Enforcement Officers shall report to the General Prosecutor and subject to his supervision within the jurisdictions for Judicial Enforcement.  
The General Prosecutor may request the concerned relevant entity to look into anyone for whom there could be a violation or deficiency in carrying out of his duties; he may file disciplinary lawsuit, all of this shall not prevent filing criminal charges.
- Article 86: If the General Prosecutor felt that a Judicial Enforcement Officer committed a severe error, or that the penalty ruled to him is insufficient, and also if the concerned entity did not respond to the request for looking into Judicial Enforcement Officers, the case maybe taken up to the Appeals Court to consider removing the Judicial Enforcement status from the relevant official; all of this does not prevent the filing of criminal lawsuit. This Court may also take on a case at its own discretion or based on the request of the Chairman whether a case that is presented to it is appropriate, and shall look into the case of removing the Judicial Enforcement status in the situations cited in the previous article.
- Article 87: The Appeals Court must, in the cases presented to it and relevant to what is stated in the previous article, carry out a preliminary investigation in which it listens to the statements of the representative of

the General Prosecution and the Judicial Enforcement Officer who is under questioning.

The Judicial Enforcement Officer shall be notified in advance of all the violations assigned to him and for which he is being blamed; he may seek the assistance of a lawyer. In all these cases these procedures shall take place in the deliberation chamber.

Article 88: Without prejudice to the disciplinary penalties which are ruled to the Judicial Enforcement Officer or which may be so meted out to the Administrative Supervisors, the Appeals Court in the Governorate may issue him a warning and withhold the Judicial Enforcement Officer role from him for a certain period of time or permanently in the Appellate Court jurisdiction or throughout the Republic.

Article 89: The full loss of Judicial Enforcement status on a Judicial Enforcement Officer results automatically in the dismissal from his position; for limited loss of Judicial Enforcement status in a particular district that leads to relocating the concerned officer out of this district.

Article 90: The rulings of the Court of Appeals against any Judicial Enforcement Officers shall be notified to the authorities that fall under its supervision and to the General Prosecutor.

Article 91: The Judicial Enforcement Officers are assigned to investigate crimes and to chase after those who commit them; to examine all reports and complaints and the gathering of evidence and information relevant to them and to record them in the Minutes [Report] which shall be sent to the General Prosecution.

Article 92: If the Judicial Enforcement Officer is notified or becomes aware of a crime occurrence of a severe nature, or is of those so specifically designated by the General Prosecutor by a decree from him, he must inform the General Prosecution and immediately move to the crime scene to safeguard it and to arrest all that is relevant to the crime and to carry out all the necessary examinations; in general, he shall take all the necessary measures to safeguard the evidence of the crime and whatever will facilitate the investigation thereof, listen to all the statements from anyone having any information on any crimes that occur and to interrogate the suspects about them.

He must also record all this in the Minutes [Report] of Investigations and Collection of Evidence, which he shall sign along with the witnesses he listened to and the experts whose help he sought. He shall have no right to put the witnesses and experts under oath, unless he is concerned that it will be impossible to get the testimony under oath after this testimony. All these report shall be submitted to the members of the General Prosecution upon his presence.<sup>1</sup>

In the other crimes the Minutes [Report] of investigation and collection of evidence which are carried out by the Judicial Enforcement Officers in accordance with what is stated above, shall be duly sent by them to the General Prosecution to take the appropriate measures.

Article 93: The member of the General Prosecution, upon receipt of the Minutes [Report] of Investigation and Collection of Evidence or upon the

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<sup>1</sup> This is a very obvious example of how a passage like this is hard to understand in the original Arabic. But what I have done is a very careful rendering of the original without forcing my own understanding on it.



presentation of the Minutes [Report] for his review must ensure the fulfillment of these report to the requirements thereof prior to any further action being taken; he shall return it to its source of origin for completion, or designate someone to complete or completing them or he shall complete them by himself.

Article 94: Anyone who is aware of the occurrence of a crime which fall under those crimes which the General Prosecution may file charges for, without having to wait for a complaint or permission, shall inform the General Prosecution immediately or the nearest Judicial Enforcement Officers.

Article 95: Any general public employee, or those appointed for public service, who comes to learn, while performing their duties, or as a result thereof of the occurrence of a crime, which fall under those crimes which the General Prosecution may file charges for, without having to wait for a complaint or permission, shall inform the General Prosecution immediately or the nearest Judicial Enforcement Officers.

Article 96: If a member of the General Prosecution and a Judicial Enforcement Officer meets at the scene of a crime, the member of the General Prosecution shall carry on the tasks of the Judicial Enforcement Officer; if any of the Judicial Enforcement Officers has already commenced work, the member of the General Prosecution may investigate by himself or to order the completion thereof directly.

Article 97: Any complaint in which the complainer does not claim any civil rights, shall be regarded as a report; but not in itself a claim for civil indictment, nor shall the complainer be regarded as claiming for civil rights, unless he explicitly states so in the complaint, or in a paper that he presents later after this, or if he requests any compensation in any of the two.

## **Chapter Two**

### **The Authorities of the Judicial Enforcement Officers In the Observed [Witnessed] Crimes For Arrest or Seizure**

Article 98: A crime is regarded as witnessed or observed upon its occurrence or immediately following its occurrence by a slight moment, and also if the victim of the crime pursued the perpetrator, or the general public pursued him with screams shortly after its occurrence, or if the criminal is found a short time after its occurrence carrying arms, tools or goods, or any other objects which can point to evidence that he is the perpetrator of the crime or is one of the participants in the crime, or if he is found, at the time mentioned, signs or effects that indicate the same.

Article 99: In witnessed crimes the Judicial Enforcement Officer must move immediately to the scene of the crime to examine the material objects of the crime or to safeguard them; to record the conditions of the places and people involved; all that will be useful in exposing the truth, including statements by those who are present, or from anyone who could provide clarifications on the event; its perpetrators. He must

immediately inform the General Prosecution of his move to the scene of the crime.

The General Prosecution, by just being notified of a witnessed crime of a severe nature, shall also move to the scene of the crime.

Article 100: In witnessed crimes of a severe nature, the Judicial Enforcement Officer shall prevent any person present in the place of the crime's occurrence from leaving or moving away from the location until report has been written; he may request the attendance of any person; to obtain clarifications on the incident.

Anyone who violates this prevention or call for attendance, shall be detained in jail. His case shall be presented to the Judge of the appropriate jurisdiction, based on the request of the General Prosecution to rule on him after allowing for his defense. If the violator is not arrested, or does not attend after being notified of his summons, he shall be tried in absentia, the ruling of which is not subject to any manner of appeal.

Article 101: In observed crimes the penalty of which exceeds six months, the Judicial Enforcement Officers may arrest any person to whom all evidence points as being the perpetrator[s] of the crime, or is related to it, if he is present, or to summon him if he is not present.

Article 102: The Judicial Enforcement Officer, in the cases cited in the previous article, may search the suspect or his residence and arrest all the objects and papers which are useful for exposing the truth, whenever strong signs are found that indicate that such could be found therein.

Article 103: The Judicial Enforcement Officers shall arrest persons in the following cases:

First: If an order is issued to them from a concerned authority.

Second: In the presence of the person ordering the arrest; under his supervision if he sought their assistance.

Third: If a call for the arrest is made by an advertisement or publication, by a concerned authority in accordance with the rules stipulated in such a case.

Fourth: In the cases cited in Article 98 above.

Fifth: If he committed a serious crime and strong evidence arose of his involvement and his escape is feared.

Sixth: If he committed a non-serious crime which is punished by imprisonment; strong evidence arose pointing to his involvement in it as well as reliable information, and the following conditions applied to him:

1. If he did not have a known place of residence in the country.
2. If there is strong evidence that he is putting to trial to hide himself or to escape.
3. If he refuses to identify himself and his name, or lied thereof, or that he presented a statement which is not convincing or refused to go to the police precinct without any justification.

Seventh: If he is clearly [sic] intoxicated.

Eighth: If he is suspected for serious reasons that he is a escaping arrest.

Article 104: Other than in the cases of witnessed crimes, the Judicial Enforcement Officers may take any appropriate safeguarding measures in accordance

with the rules stipulated in this case; may request the General Prosecution to issue an order for the arrest with whom strong evidence is there to indict him for any of the following crimes:

First: If he is suspected of concealing stolen goods, or which are used or are obtainable through criminal acts;

Second: If he is suspected of a cheating crime or serious aggressive action, or inciting to misdeeds, misconduct, prostitution or in possession or use of narcotics.

Article 105: The Judicial Enforcement Officers in the above cases shall listen to the statements of the suspect immediately and refer him with the Minutes [Report] of these statements to the General Prosecution within 24 hours. The General Prosecution must take action with regards to his case within the following 24 hours from the time this case was reviewed, or else he must be released immediately.

Article 106: The Police Precinct Officer-in-Charge shall record all cases of arrest and enforcement which are handled by the precinct in a special record which would give the details of the name; position of the detaining officer or the enforcement officer, the method, the date, the hour, the reason and the end of the arrest. A daily copy of the record of arrests and enforcement shall be presented to the General Prosecution, on an immediate basis.

Article 107: Every policeman has the right to halt any person; request him to disclose his name and identity, if this is necessary for the investigations he may be pursuing. If the person refuses to provide the information requested or presented false information or that there is strong evidence that he had committed a serious crime, the Police Officer may accompany him to the Police Precinct.

He may also do that in the following cases:

1. If he did not have a known place of residence in the country.
2. If he refuses to identify himself and his name, or lied thereof, or that he presented a statement which is not convincing or refused to go to the police precinct without any justification. If there is strong evidence that he is putting to trial to hide himself or to escape.
3. If he is clearly intoxicated
4. If he is found in a large gathering or conflict or fighting which threatened to lead to an occurrence of an aggression or a crime which cannot be avoided without such action.
5. Anyone who is carrying unconcealed firearms in violation of the Law.

Article 108: Any person may bring a suspect of a crime and hand him over to the nearest man of public authority, in any of the following cases:

1. If an order is issued to him by the Court or the General Prosecution.
2. If the arrest is requested by a concerned authority and it is circulated by advertisement or publication in accordance with the applicable rules in this regard.
3. If the suspect is arrested and he then escaped or attempted to escape.
4. If the suspect is seen in a witnessed crime.

5. If the suspect had been sentenced to a freedom detaining punishment and he escaped.

### **Chapter Three**

#### **The Actions of the General Prosecution in Filing Charges After the Collection of Evidence**

- Article 109: The General Prosecution is the sole authority that handles charges based on the Minutes [Report] For the Collection of Evidence in accordance with the following provisions:
- Article 110: If the General Prosecution felt that the Minutes [Report] For the Collection of Evidence involves a serious crime, then the criminal lawsuits shall not be filed until it has investigated it.
- Article 111: If the General Prosecution felt that the case is ready for presentation based on the Minutes [Report] For the Collection of Evidence, which entails the occurrence of a non-serious crime, then the suspect is ordered to attend directly to the Court of appropriate jurisdiction.
- Article 112: If the General Prosecution feels that there is no scope for bringing charges to a case, it shall issue an order with cause, to file the papers temporarily with the continuation of the careful checking if the perpetrator is unknown or that the evidence against him is inadequate, or to order the final filing of the papers, if the incident did not constitute a crime, or is insignificant. The decision for filing due to non-significance shall only be issued by the General Prosecutor or anyone designated by him to this end.
- Article 113: If the General Prosecution issued an order to file a case, it shall notify this to the victim of the crime claiming civil rights. If any of them dies, the notice shall be given to his heirs, in total, at his place of residence. Each of those mentioned has the right to appeal a decision to file a case in the court of appropriate jurisdiction within 5 days of the date of the notification thereof.
- Article 114: the General Prosecution may cancel its decision to file a case if the period set for not hearing a criminal indictment cited in Article 38 of this Law has not expired.

### **Part Three**

#### **Investigations**

#### **Chapter One**

##### **General Provisions and Rules of Investigations**

- Article 115: The jurisdiction of the General Prosecution is limited to the investigation of crimes occurring within the jurisdictions of the Court under which it carries out its work.
- Article 116: The General Prosecution has the authority to investigate and prosecute and all the authorities and responsibilities set by the Law; he may

directly exercise the authority to investigate himself or through any member of the General Prosecution or who ever is assigned for this by the Judiciary or through the Judicial Enforcement Officers.

Article 117: the member of the General Prosecution may delegate a Judicial Enforcement Officer to carry one or more tasks in the investigation of a crime, except the interrogation of the suspect, with all due consideration to what is cited in the previous article. The delegated person shall have, within the delegation given, all the authorities of the General Prosecution member accordingly.

The member of the General Prosecution, if necessary, may take any measure, outside the area of his jurisdiction, by assigning the task to a member of the General Prosecution who is in the area of appropriate jurisdiction.

The concerned General Prosecution member shall move himself to take this measure, whenever it is in the interest of the investigation to do so; he may if necessary delegate this to any of his assistants or any of the Judicial Enforcement Officers.

Article 118: The member of the General Prosecution shall, in all cases, where he assigns others to investigate on his behalf, show the questions that need to be investigated and the measures that need to be taken; the assigned official may take any other investigative action, or may interrogate the suspect in the as necessary, whenever he fears the loss of the time, whenever such is necessary to arrive to the truth.

Article 119: All measures taken during the investigation must be recorded and the investigator shall be accompanied by a clerk who writes the Minutes [Report] and signs it with the investigator; the investigation file shall be kept with all its contents with the clerk until the investigation is acted upon and the file is handed over to the concerned entity, or to be kept in the clerical department. Whenever necessary, the investigator may delegate who shall write the Minutes [Report] of the investigation from other than those assigned for this under his supervision after having sworn in the person so assigned legally; if none is available, then he shall take charge of writing the Minutes [Report] of the Investigation.

Article 120: The Minutes [Report] of Investigation shall not show any erasures, crossovers; if a word is needed to be canceled or added, the investigator and the clerk shall sign on the margins of the Minutes [Report]; any crossovers or write-over shall be considered void unless otherwise signed accordingly.

Article 121: Without prejudice to the rights of defense, the investigation measures shall be carried out in secret, unless the Law cites otherwise; all those who undertake these measures or take them not to reveal any of their contents. Any one who violates this will be punished part in accordance with the punishment stipulated in the Penal Law.

Article 122: The suspect, or the victim of the crime and his heirs or anyone who suffered damages from the crime, or anyone claiming for civil rights, or anyone liable for them, or their assignees-in accordance with the Law shall attend all the investigation procedures; they may not state anything without permission from the investigator; if the suspect is under arrest or detained, the Investigator must fetch him.

In addition, the Investigator may, in speeding up the case, carry out some of the proceedings of the investigation in the absence of the litigants, in which case the latter shall have the right to look at the papers which record such proceedings; the Investigator may carry out the investigation in the absence of all of them or some of them if necessary; the litigants may not request halting the progress of the investigations in the manner the Investigator decided that it be conducted in; he must show all those mentioned what has transpired as soon as he finishes [doing so].

- Article 123: The Investigating member of the General Prosecution shall start by noting the statement of the complainer, or the Minutes Reporter or the victim of the crime.
- Article 124: The litigants must be notified of the day the Investigator shall commence the proceedings of the investigation and the location thereof.
- Article 125: The litigants may present to the Investigator any defenses or requests which they want to during the Investigation and the Investigator must record them and investigate them.
- Article 126: Each individual must present to the Judicial Enforcement Officers or the General Prosecution or the court what they need in terms of assistance during the exercise of their legal authorities for the arrest of suspects, or preventing them from escaping, or for the prevention of crimes. If he refuses the performance of such duty without any acceptable excuse, then he shall be detained in the provisional detention center; his case shall present the basis on which the request of the General Prosecution to the concerned Judge to decide on the appropriate punishment after having allowed the person to defend himself.
- Article 128: The member of the General Prosecution has, during the Investigation, the authority possessed by the Court, in terms of maintaining order during the sessions.
- Article 129: 1. The investigation shall be completed within two months at the most, since the opening of the case file; those cases where a provisional arrest of a suspect is involved shall be quickly completed in terms of the investigations procedures required.
2. The General Prosecutor shall set the periods needed for the investigation of the different kinds of criminal cases; in the event that longer time is required to overcome the difficulties involved in investigating a case, or in view of the size of the case, more than the period already set, the concerned Chief Prosecutor's permission is required; if the period required is in excess of the maximum two months then the Chief of the General Prosecution at the governorate level must approve the extension to up to three months maximum.
3. The period of investigation of a crime shall not exceed six months unless approved by the General Prosecutor, whereby the additional time allowed shall not exceed six months in all cases.

## **Chapter Two**

### **Moving [to the Crime Scene] and Examinations**

Article 130: The Investigator may transfer to the scene location of the crime or to any other place he needs to make an examination or an observation whenever he sees this to be useful for the investigation in order to prove the conditions of the place and persons and objects; to establish the existence of the crime physically as well as the results thereof; all that needs to be established for the investigation; he may call upon any expertise to carry out an examination; he shall write the Minutes [Report] of the examination to give a complete picture that agrees with the situation or item being so examined and for this purpose photographs may be taken and illustrations made to supplement the Minutes [Report].

### **Chapter Three**

#### **Inspections and Detention of Objects and Dispensing with Them**

Article 131: Persons, their residences, their postal correspondences, wire and wireless communications and personal conversations have their legal sanctity.

The sanctity of the residences includes all the places that are fenced, walled or surrounded by any barrier whenever such place is used as a place of accommodation or for the storage of objects; the sanctity of correspondences prevents any viewing thereto during their transfer or movement from one person to another, whether by phone or by mail.

Article 132: No persons may be searched; no houses may be entered into; no postal correspondences may be looked into and no wired or wireless or private conversation may be recorded; no items may be arrested except by a warrant from the General Prosecution during the investigation and from a judge during the trial.

Article 133: The search of a person shall be for whatever may be found on his body, clothes, or personal belongings found with him.

Article 134: All searches or inspections shall be made in the presence of the suspect or anyone acting on his behalf and in the presence of two witnesses from his relatives or neighbors. If the search is in a house other than that of the suspect, the owner of the house shall be called in to attend himself or anyone acting on his behalf and in the presence of two witnesses from his relatives or neighbors.

The witnesses cannot be any of the men conducting the investigation.

Article 135: The Investigator may search the suspect, or others if there is strong evidence that he is concealing something which is detrimental to revealing the truth.

Article 136: the General Prosecution, if sufficient evidence exists, may search any place to arrest any papers and arms and all that may potentially have been used in committing the crime for which the search is being conducted for, or as a result thereof or due to the crime occurring therein, or a for any useful role in getting to the truth.

Article 137: The search must only be for those objects and remains that are relevant to the crime for which the investigation is being conducted and shall not be for anything beyond that, unless other objects appeared during the

search in which the possession thereof is regarded as a crime or can be useful in getting to the truth of another crime, then the person conducting the search may detain such objects and record them in the Minutes [Report] accordingly.

Article 138: The searches of houses is one of the activities involved in investigations, and shall only be resorted to by a search warrant issued by the General Prosecution based on charges or accusations made against a person residing in the house intended for the search that he committed a crime which is punishable by the enforced Law of Punishments [the Penal Code].

Article 139: A. The warrant issued for the search and arrest must be shown to the suspect prior to carrying out the search or arrest.

B. The search and arrest warrant may be shown after conducting the search or the arrest in the event of the arrest of someone seen while carrying out a crime or is chased after committing it.

C. If the search is carried out in another place not belonging to the suspect, the goal of the search shall be revealed to the concerned person.

Article 140: A. The person conducting the search may not arrest or look at those objects that involve the personal or family secrets of the owner whose place is undergoing a search or any of the other persons. The inspector shall take all reasonable precautions to avoid revealing any of these secrets.

B. Any closed papers found in the home of the suspect may not be torn open or destroyed; they may, if necessary be safeguarded to present it to the court, which will open it itself.

Article 141: A. During a search the people who are in the place being searched may be asked not to vacate the place until the search has ended.

B. The person conducting the search may place the persons who are present in the place being searched under guard if he fears any hindrance or block or resistance to the search from any of them.

Article 142: The person whose place is being searched in accordance with the provisions of this Law must allow the person conducting the search to carry on with his duty; if he refuses thus, the inspector may forcefully carry out the search as much as necessary; he may request the assistance of the Judicial Enforcement Officers with the attendance of the witnesses if the person conducting the search is not a member of the General Prosecution.

Article 143: A female may not be searched except through another female who is called for this purpose by the person conducting the search; her name and identification card number shall be recorded in the Minutes [Report] of the Search; the search is conducted with the presence of two female witnesses.

Article 144: A. The searches of houses shall be conducted after sunrise and prior to sunset except in the case of a witnessed crime or when chasing someone escaping justice.

B. The reasons for a night search must be recorded in the Minutes [Report].

C. If a night search is prevented due to the absence of justification thereof, the necessary measures of surrounding the house and the



prevention of anyone leaving the premises except by permission may be taken until the time the search commences after sunrise.

- Article 145: The members of the General Prosecution may place seals on those places that contain remains or objects that will lead to revealing the truth; they may place guards by these places. If such is carried out by a Judicial Enforcement Officer than he must notify the General Prosecution immediately of the same.
- Article 146: The concerned member of the General Prosecution alone is allowed to review the letters, telegraphs and other papers that are arrested, whereby this shall only be done in the presence of the suspect or its owner or the one to whom it is sent to; their comments shall be recorded on them; he may seek the assistance, as necessary, in the inspection of the papers or their translation by three investigation clerks or a Judicial Enforcement Officer or any translator in his presence and under his supervision. Through a warrant from the Chief Prosecutor, a telephone man may be assigned after swearing him in to wiretap telephone conversations and to record them to transfer their contents to him and the warrant must contain a specific clear description of the conversation being intended for the recording within 30 days of the date of the issuance of the warrant.
- Article 147: Copies of the arrested letters and telegraphs must be notified to the person that they are sent to as soon as possible, unless this would create damage to the progress of the investigation.
- Article 148: The General Prosecution may issue warrants for the arrest of all letters, correspondences, newspapers, printed material at the telegraph offices and to warrant for the monitoring or tapping of any wired and wireless communications, or to carryout recordings of any discussions in a particular place, whenever this is necessary for revealing a crime. In al cases the Warrant must be with cause and for a period that does not exceed thirty days.
- Article 149: Any place maybe entered into without consideration of the above provisions of this Chapter and this law, in the case of a call for help is made from inside such a place, or in the case of fire, drowning or any similar emergency situations.
- Article 150: The member of the General Prosecution conducting the search must write Report of the procedures taken in the search and the results thereof; the items arrested and the Minutes [Report] is to be signed by the Investigation Clerk.
- Article 151: The Minutes [Report] shall show a description of the objects detained, their conditions and how they are found when arrested, the place where they are located and the statements of those with whom they are arrested from, or anyone acting on his behalf. These arrested items shall be placed in packages that are appropriate to the size and the nature of the goods arrested; they shall be thus sealed by an official seal; stickers shall be placed on these packages showing the date, place and reason for arrest and the number of the case they are associated with and the signature of the arresting official. All these measures shall be taken prior to leaving the place where they are arrested, whenever this is possible.

If currency notes are found which are not required to be safeguarded for reaching the truth, or for the safekeeping of the rights of the litigants or the rights of others, the General Prosecution may deposit them in the vaults of the General Prosecution. The person from whom these are arrested from shall be given a statement thereof, signed by the person conducting the arrest and the witnesses.

Article 152: The costs for maintaining the confiscated goods shall be carried by the Treasury of the government, which must be committed to by the person issuing the warrant or whoever the Court obligates to do so. If it is found that these goods are perishable, or the cost of maintaining or storing them is very expensive or not consistent with its value, the Investigator is obliged to sell them by himself or anyone he delegates for this at the prevailing price whenever this is possible. The cost shall be deposited with the Treasury and the value shall take its place with regards to the provisions for arrest.

Article 153: The goods arrested by an issued warrant accordingly, shall remain so, as long as they are needed for the investigation and the ruling on the case. Any person claiming an entitlement to any of the goods arrested; to anyone who has an objection to their arrest, or them remaining so, whether the objector is the one with whom the goods are found when they are arrested or they are with another person, may request the Investigator to hand over those goods to him. In the event that the request is denied the person may object to the court of jurisdiction over such objections, while in session in the court Chamber, after the review of the papers of the investigation and after hearing the statements of the objector if the Court saw the need for this. If the arrested good is that the possession of which constitutes a crime in itself, the General Prosecution may request for its confiscation or its destruction after keeping whatever is necessary as samples in accordance with the applicable rules accordingly.

Article 154: The investigator may not arrest the documents or papers that the defendant has submitted to his defense lawyer or the consulting expert to carry out the duties he has entrusted them with, nor the correspondences exchanged with them pertaining to the case.

Article 155: If the arrested goods are deemed not to be necessary anymore for the investigation or to proceed with charges or not within the goods that must be confiscated, then an order must be issued for their release.

Article 156: With all consideration due to the provisions of Articles 153 and 154, the goods arrested shall be returned to the persons with whom they are found at the time of their arrest.

If the arrested goods are among the items for which or by which the crime is committed, they shall be returned to the rightful owners who lost possession thereof by the crime committed, unless the one who it is arrested with has the right to keep it arrested by the provisions of the Law.

Article 157: The order for release of the arrested goods shall be issued by the General Prosecution or the Court for whom the objection to their arrest is filed. The Court which is handling charges may also order release thereof during the trial proceedings.

- Article 158: The release order shall be made even if there is no request as such, to the person entitled thereto; the warrant for the arrest of the goods shall be canceled; the General Prosecution may not order to return the goods if it has any suspicion or doubt as to who shall have the right to receive the arrested goods, or a serious dispute has arisen for possession thereof. In such a case the General Prosecution shall file the case to the Court of appropriate jurisdiction in session in the Chamber of the Court to rule on such a situation as appropriate.
- Article 159: The Court to which an objection is filed which is in session in the Court Chambers may refer the litigants for litigation regarding the right to receive the goods at the Court of appropriate jurisdiction if it saw a need for this by a claim to be ruled on in accordance with the Civil Law with notification thereof to be given to the concerned individuals with the case as such.
- Article 160: When the order for filing the case, or when it is found that there is no justification for proceeding with the criminal lawsuit, the General Prosecution member must rule decisively on the means of acting upon the arrested goods and such is the case when the judgment is made on charges if a request for the return of the arrested goods is presented before the court.
- Article 161: If the owner of the arrested goods cannot be determined and no one claims title to them, the Investigator or the Court can announce through the media channels on these goods; the person who comes up to claim them to present support for such a claim.
- Article 162: If the Court does not rule for the confiscation of the goods arrested, or for the return of the goods to a specific person, or its owner is not known; no one comes to claim them within one year of the final ruling on the case in charges, the goods shall become the property of the Government without any ruling needed to be issued to that effect.
- Article 163: 1. Goods may be arrested on the grounds that they can be of significance in the investigation considering that these goods could be evidence of proof in the case.  
2. During the progress of the measures for criminal cases, pertaining to a crime, a punishment may be decided on the case in the form of confiscation of property or assets; in such cases, arrangements need to be made to be sure that the defendant does not conceal his assets, including the arrest of such assets accordingly.
- Article 164: The Court shall issue an order that money apprehended from those shall be spend to meet expenses that are so liable by law to the meet needs who are dependents on the defendant.

## **Chapter Four**

### **Hearing the Testimony of the Witnesses**

- Article 165: The General Prosecution shall notify the witnesses, those who were decided to testify; summons shall be issued to them through the summons personnel or through the public employees.

- Article 166: The Investigator shall hear the witnesses who have attended based on his request, or on the request of the Complainer, or attended by their own will; the witnesses of the defendant who are requested to attend for a hearing, whenever their testimony will be of use in the investigation; he must verify the identity of the witness and he shall interrogate him and record his statements in the Minutes [Report]. He shall also discuss with them this testimony; allow the other litigant to talk to the witness, if this would be of benefit in the investigation; the questions shall always be directed through the Investigator who has the final word in rejecting any witness from whom no benefit can be derived in the hearing, and in refusing the directing of a useless question one that is irrelevant to the case under investigation, or which in its formulation may contain harm to others.
- Article 167: the Investigator shall hear all the witnesses separately and he may have the witnesses confront each other or confront the defendant.
- Article 168: The identity of the witness shall be verified, with the Investigator requesting him to present his name, nickname, age, occupation, residence and the relationship to the accused.
- Article 169: the Investigator and the Clerk shall set their signatures on the testimony of the witness, and also the witness after its recitation to him and his acknowledgment that he insists on the testimony. If he refuses to sign or place his stamp on the testimony, or he is unable to do so this shall be indicated in the Minutes [Report], taking note of the reasons he presents for not doing so.  
In all cases the Investigator and the Clerk shall place their signatures on every page on an apriori basis, by noting the number of pages at the end of the Minutes [Report].
- Article 170: After hearing the testimony of the witness, the litigants may state their views on the testimony of the witness; they may request from the Investigator to hear the witness on other item or points which they point out.
- Article 171: The Investigator shall estimate, based on the request of the witnesses, the expenses and compensation they are due for their attendance to give their testimony.

## **Chapter Five**

### **Arrests**

- Article 172: Without prejudice to the provisions cited in Part TWO of Volume TWO of this Law, no person may be arrested or detained except by a warrant from the General Prosecution or the Court; based on a legal justification accordingly.
- Article 173: The person implementing the arrest warrant may not enter the houses or forcefully break into them for searching those for whom there is a warrant for their arrest except in any of the following cases:
1. If that is done under permission of the General Prosecution or the Court.
  2. If the person to be arrested has committed a witnessed crime.

3. If the person to be arrested is accused of a serious crime for which he has not been arrested yet; it is feared that he will escape or that he is a convicted criminal fleeing from justice.

4. If the person sought for arrest refuses to surrender himself to the authority assigned to implement the arrest warrant, or if he resists that authority.

5. If the law or the warrant for his arrest clearly states that he is to be arrested anywhere he may be found.

Article 174: The Court and the Investigator can order the arrest of any person, or to summon him to attend if there is strong evidence that he is suspected of committing a certain crime.

Article 175: If the suspect does not attend after being summoned to do so without any acceptable excuse, or if his escape is feared, or if he does not have a place of residence which is known, or if the crime in question is a witnessed crime, the Investigator may issue a warrant for the arrest of the suspect and to fetch the suspect in, even if the event may be one in which his provisional arrest is not allowed.

Article 176: The General Prosecution may not detain anyone more than seven days for investigation; the arrest warrant is not to be prepared except by the order of the Judge of the Court of appropriate jurisdiction.

## **Chapter Six**

### **Interrogating and Confronting [the Suspect]**

Article 177: Interrogating the suspect includes, in addition to directing the accusation to the suspect, confronting him with the evidence and proofs that stand to make the accusation against him; to discuss them with him in detail. The Investigator must guarantee the right of defense in full to the suspect, in particular his right to sorting out and discussing the evidence being brought against him. The suspect may at all times state whatever he has in terms of defense, or to request taking any measures related to investigating the case; all his statements and requests shall be recorded in the Minutes [Report].

Article 178: The suspect may not be sworn in the legal oath, nor may he be compelled to respond to a question, nor shall his refusal to answer be considered as evidence against him proving his indictment; no form of deceit or use of force or pressure by any manner of temptation or compulsion to get him to confess.

Article 179: The suspect must announce of the name of his attorney by a report to the clerical department or to the head of the penal facility, or the attorney may do this on his behalf. The attorney may not speak unless allowed to do so by the Investigator; if he is not permitted this shall be noted in the Minutes [Report].

Article 180: The defense attorney may be allowed to look at the investigation the day before the interrogation or the confrontation, unless the Investigator decides otherwise.

In all cases the defendant and his lawyer attending with him during the investigation may not be separated.

Article 181: In the cases of non witnessed crimes and the urgent cases due to fear of the loss of the evidence, the Investigator of the serious crimes may not interrogate the suspect or to confront him with the other suspects or witnesses except after calling in his lawyer to attend if he is available; he must inform the suspect that he need not answer except in the presence of his lawyer.

Article 182: When the suspect first attends investigation for the first time, the Investigator must verify his identification and shall inform him of the fact of him being a suspect and the facts that relate to this; he shall advise him that he is free to give any clarifications; he shall record all his statements in the Minutes [Report].

The suspect in a libel case or slander case through publication in one of the newspapers or any other publication shall present to the Investigator during the first interrogation or, at the latest during the first seven days that follow, a statement showing all the actions of a public official or any person of the General Prosecution, or anyone who is assigned a public service function, or else his right in standing up to the evidence presented falls as cited in the Law of Punishments.

If the suspect is ordered to appear in Court directly without any prior investigation, he shall notify to the General Prosecution and the claimant his personal right to show the evidence in the seven days that follow the notification for him to attend, or else his right to present the evidence shall also fall.

The postponement of reviewing the case in these situations is not permitted more than one time; then only for a period that does not exceed thirty days after which the ruling shall be made supported with due cause.

Article 183: If the suspect admits to the allegations made against him, at any time, the Investigator shall record his admission in the Minutes [Report] of the Investigation immediately after it is made and discussed with him. But if he denies, his in depth interrogation shall be postponed until after hearing the testimony of witnesses confirming this; the suspect shall sign on his statements after they have been read to him, or the Minutes [Report] shall refer to his inability to sign, or his refusal to do so.

## **Chapter Seven**

### **Temporary [Provisional] Arrest**

Article 184: Provisional arrest shall only be made after the interrogation of the suspect in accordance with the Law, or in the event of his escape, if this is viewed as being in the interest of the progress of the investigation; then only if the following conditions exist:

1. The availability of sufficient evidence to bring charges against him.
2. That the incident of which the suspect is accused of shall be a crime punishable by imprisonment by a term that exceeds six months, or if the accused does not have a known recognized place of residence in

the Republic of Yemen, whenever the crime is punishable by imprisonment.

3. The suspect is over of 15 years of age.

4. If the identification of the suspect cannot be determined.

The statements of the suspect who fled from arrest after a warrant has been issued for his precautionary arrest must be heard within 24 hours after his arrest.

Article 185: The provisional arrests for crimes that occur through the newspapers, except if they are crimes that are scandalous or instigating immoral behavior.

Article 186: The arrest warrant issued by the General Prosecution shall be in writing and signed by the concerned member of the prosecution and carries the seal of the Republic and shall include the following details:

1. The name of the suspect (up to the third name).

2. The residence address of the suspect.

3. The number of the case he is being arrested for.

4. The crime attributed to him and the relevant Article in the Law.

5. The source of the warrant and the position of the official who orders it.

6. The period of provisional arrest; the date that the suspect will confront the authority that ordered his arrest in order to take action on the case.

Article 187: A person's freedom may not be restricted, nor may he be arrested, except in those places duly designated for this legally; the people responsible for these places may not admit anyone into them except through a warrant signed by the concerned authority; the arrested person shall not be kept beyond the period designated for the provisional arrest.

Article 188: When placing a person in the penal institution based on the warrant for his arrest, a copy of the warrant shall be submitted to the supervisor of the facility after he has signed receipt thereof on the original.

Article 189: The arrest warrant issued by the General Prosecution is effective for only seven days after its issuance following the arrest of the suspect, or his hand-over to the General Prosecution, if he is arrested by before; the implementation of the arrest warrants or summons or arrest issued by the General Prosecution shall not be honored after the lapse of six months following their issuance, unless otherwise extended.

Article 190: If the General Prosecution felt the need for extending the provisional arrest of a subject, it must, prior to the expiry of the period of arrest show the papers to the Judge of appropriate jurisdiction to issue the appropriate instructions which he considers to appropriate after hearing the statements of the General Prosecution and the suspect. The judge may extend the arrest period or periods as necessary but it shall not exceed a total of forty-five days.

Article 191: If the investigation is not yet finalized even after the end of the period of provisional arrest mentioned in the previous article, the General Prosecution shall present the papers to the Appellate Court in the governorate of appropriate jurisdiction, while is in session in the Court Chamber, to issue its orders after hearing the statement of the General Prosecution and the suspect. It may extend such arrest for periods that

do not exceed in total forty-five days if that would be in the interest of the investigation or the release of the suspect under bail, or without bail. In addition, the case should be presented to the General Prosecutor if three months have elapsed since the arrest of the suspect in order to take all the measures which he regards as appropriate to complete the investigation; towards this, he may delegate the Head of the General Prosecution of the Appellate Court to request the extension of the provisional arrest for a number of additional periods that shall not be in total more than three months; whereas the entire period of the arrest shall not exceed six months in total, unless it has been announced that the suspect shall be referred to the Court of appropriate jurisdiction prior to the end of the period, otherwise he must be released.

Article 192: Every member of the General Prosecution shall visit the penal facilities in their area of jurisdiction and to ensure that there are no persons under arrest illegally.

He is entitled to review the records and arrest warrants and to take photo copies of them as he sees fit; he also is entitled to call on any prisoner and to listen to any complaint he may want to voice to him.

The supervisors of these facilities shall provide all the assistance to obtain all the information he requires.

Article 193: Anyone whose freedom has been restricted may present to the head of the penal facility any complaint, written or verbal; request him to present it to the General Prosecution; the person receiving the complaint must accept it and present it to the General Prosecution, immediately after recording it in the special register prepared for this.

## **Chapter Eight**

### **Temporary Release**

Article 194: The General Prosecution, at any time, by its recourse or at the request of the suspect provisionally arrested may release the suspect by or without bail bond, provided that he undertakes to attend at any time he is requested and to refuse any ruling that is passed against him.

Article 195: The suspect of non-serious crimes must be released if seven days have passed since the date of his interrogation, as provide in Article 189 and if he has a recognized place of residence in the country and if the maximum sentence for the crime does not exceed one year of imprisonment.

This article is not effective on any one previously sentenced for more than a year without halting the implementation thereof, or if he is incumbent in committing the crime.

Article 196: The warrants issued for provisional arrest and the release from arrests during the trial shall all be implemented by the General Prosecution or their knowledge thereof.

Article 197: In the cases where the release is not mandatory, the temporary release may be linked to the provision of a bail bond; the General Prosecution and the Court shall determine the amount of the bail to be posted as a



bond according to the particular situation which shall warranty the following:

First: A sufficient fine for the non attendance of the suspect on any measure of the investigation or the trial, or at the time of implementation of the sentence when it is issued.

Second: Shall cover the following amounts:

1. The costs and expenses that the personal claimant has hastened to pay.

2. The charges and expenses due to the government.

3. The fines which the suspect may have to pay if he is found guilty.

The decision for the release shall indicate the amount of the bail posted; the share allocated to any of the two preceding sections. If the amount posted is estimated without any allocation, it shall be considered a guarantee that reflects the commitment of the suspect to attend and to cover the other obligations which may be imposed upon him and as a bond that he will not evade carrying out the judgment ruled in his case.

Article 198: The amount of bail bond shall be paid by the suspect or any other person by depositing it at the Government treasury; a receipt shall be issued accordingly.

The amount to be posted as bail shall be accepted from any person able to guarantee that if the suspect does not comply with any of the conditions of his release; an undertaking is taken from him to that effect in the Minutes [Report] of the Investigation or by a report at the Clerical Department.

The Minutes [Report] or the Minutes [Report] shall have the force of due implementation.

Article 199: If the suspect did attend any of the proceeds of the Investigation, or any of the sessions of the trial, or if he does not carry out the sentence imposed on him without an acceptable excuse, the first part in the bond shall become the possession of the government without any need of a ruling to that effect.

In addition, the ruling of innocence or the decision not to pursue criminal charges or not hear the case anymore may state that the first section of the may be duly refunded.

Article 200: The Second section of the bond shall be returned if the ruling of innocence is passed or if a decision not to carry on with the criminal lawsuit or not to have to hear the case.

If the ruling is negative and the suspect is found guilty, the second section of the bond will be allocated to payment of the charges and expenditures, as well as the other fines in accordance with the arrangement indicated in Article 197; if any amounts remain, it shall be returned to the suspect or the guarantor as the situation may dictate.

Article 201: The General Prosecution may request the suspect to select a different place of residence other than the place where the crime occurred and to ban him from going to any particular place.

Article 202: The release from arrest order does not prevent the General Prosecution from issuing a new warrant for the arrest of the suspect if the evidence against the suspect becomes stronger or if the suspect violates the

conditions by which he is released, or conditions that call for taking this measure accordingly.

Article 203: If the release from detention is conditional on the presentation of a bail or an undertaking with a capable guarantor, then the release shall not be effective except on the date that the amount of the bond has duly deposited by the suspect or by the guarantor.

If the release is without the condition of posting a bail bond, then the warrant for the release shall become effective once the suspect signs the undertaking.

Article 204: Whenever the release from detention has become effective, the member of the General Prosecution shall issue the release warrant to the supervisor of the penal facility where the suspect is detained to free him; the supervisor or anyone acting on his behalf shall free the suspect immediately as long as he is not detained for any other reason, which the papers shall so indicate.

Article 205: If the suspect is referred to trial, he shall be released if he is detained, or arrested if he is released, being the responsibility of the Court to whom the suspect is referred to via the General Prosecution provided that the authority of the Court in extending the arrest warrant shall not go beyond half the maximum prison term stipulated [for the crime].

In the event of a ruling that the [case does not fall within the] jurisdiction of the Court, the Court shall be in session in the Court Chambers [i.e. in the deliberation chamber] which is the Court responsible for the case of dealing with the requests for arresting the suspect or releasing him until the General Prosecution deals with the case of the criminal lawsuit accordingly.

Article 206: The victim of the crime or the claimant for personal rights may not object/appeal the decision of the General Prosecution on the release of the suspect; this does not prevent the right of anyone of them to be heard prior to issuing the release warrant.

## **Chapter Nine Expertise**

Article 207: A. The General Prosecution may request from a doctor [of Medicine] or any person of technical expertise for an opinion on any of the questions that arise out of the investigation of the crime; the Investigator must be present at the time of work [on this opinion?] and to note his comments. If necessity so requires that the proof of the situation or condition is undertaken without his presence, in view of having to carry out some preparatory work, or to carry repeated experiments, or for any other reason whatsoever, then he shall issue an order to show the kind of investigation being sought [by the experts] and what proof is being pursued.

B. The Doctors and experts who are assigned to do some specialized expertise work shall be sworn in by the Investigator the legal oath, prior to carrying out their assignment, if they have not done this in

view of their functional employment; they must present their findings in writing.

- Article 208: Expert advice is compulsory in any of the following cases:
- A. To determine the cause of death and the nature of bodily injury.
  - B. To determine the psychological state of the suspect when doubt arises during the case as to his ability to be aware of his actions and the intentions/desires behind his actions.
  - C. To determine the psychological or physical condition of the witness when doubt arises as to his ability to witness events properly and to testify in consistency the actual events observed.
  - D. To show the age of the suspect or the victim in the case that this is significant in the case when documents are not available to provide such proof.
- Article 209: The litigants have the right of respond to the [opinion of the] expert, if reasons justify this; the request for this response shall be presented to the General Prosecution to decide on it within three days. The reasons for the response must be shown in the reply, and should require that the expert stop working on the case except in the event of speeding up the work by order of the General Prosecution.
- Article 210: The litigants have a right to seek the assistance of a consulting expert and the right to allow him to look at the relevant documents pertaining to the case and all that has been given to the expert assigned by the General Prosecution, assigned by the previous Investigator, as long as progress in charges is not impeded.
- Article 211:
- 1. The expert shall present his report in writing on the date set by the member of the General Prosecution.
  - 2. If there are a number of experts involved and they are unable to come to a common finding or opinion, then each of them shall present a separate report.
- Article 212: The expert may carry out his mission without the presence of the Parties [in litigation] and in order to obtain additional clarifications for writing his report, he may request permission to look at the documents; to hear the witnesses and the suspect testify as well as present questions directly to them. The evidence may also be available to the experts to act on them as necessary.
- Article 213: The body of the suspect may be examined. This may include taking blood samples, whenever such examination would be of significance to the case. As for the other persons other than the suspect, they cannot be compelled to undergo examination of their bodies except for the necessity of determining if they are going to face effects from acts that deserve to be punished for. The warrant for bodily examination shall be issued by the General Prosecution during the investigation or from the Court during the trial. As for the member of the [police] criminal investigation, then he is not permitted to issue such warrants except to speed up cases [?].  
The examination of females shall be conducted by a woman whose name shall be mentioned in the Minutes [Report] whenever possible.
- Article 214: The body of a corpse shall be examined by a legal doctor assigned and authorized for this; under the awareness and knowledge or supervision of the General Prosecution; in the case of an extreme necessity a grave

may be opened; the body may be examined by the General Prosecution during the investigation or the Court during the trial.

Article 215: The Investigator shall estimate, based on the request of the Doctors or experts who are assigned by him, the expenses and fees and remuneration due to them; he will issue an order for payment thereof from the government budget on the grounds that this shall be obligated on the Party determined by the Investigator or against whom the judgment shall be issued.

Article 216: The Minutes [Report] of the expert is not obligatory on the General Prosecution or the Court and every decision to reject the Minutes [Report] of the experts must be with cause. An additional report may be requested from the same expert or from another expert, if the first report contained deficiencies; likewise a new report may be requested from a new expert if doubt arose as to the propriety of accuracy of the first report.

## **Chapter Ten**

### **The Discretion of the General Prosecution During the Investigation**

Article 217: The handling by the General Prosecution with regards to the investigation after it has been completed shall be in accordance with the provisions of this Law; the mandates they have with regards to the serious crimes shall not be established for them except in accordance with the powers delegated to the members of the General Prosecution by the General Prosecutor at their different levels through a decree which he issue in this respect.

If the mandates in the investigation are the responsibility of someone else other than the Investigator, then the Investigator or anyone acting on his behalf shall send all the relevant papers to the concerned person attached with a covering letter which shall show his opinion and the reasons that this opinion is based on the rules established in this regard.

Article 218: If it is revealed to the General Prosecution, after the Investigation that the incident is not punishable by law, or is incorrect, a decision or ruling with cause shall be issued stating that there is no justification for pursuing indictment procedures whatsoever.

If it is determined that the perpetrator of a crime is unknown, or that the evidence against the suspect is inadequate, a ruling with cause shall be issued that there is no basis for carrying on with charges procedures, temporarily.

The arrested suspect shall be released, if he is not under arrest for another reason.

The litigants must be notified of the ruling made by the General Prosecution in both cases; if one of them has died the notification shall be passed on to his heirs in total, at his place of residence.

Article 219: The ruling where there is no basis for criminal lawsuit procedures to continue shall prevent the return to the investigation except if new evidence arises before the termination of the period determined for not proceeding to have indictment hearings expires. Among the new

evidence in this respect would be testimony of witnesses, the Minutes [Report]; other papers which heretofore have not been shown to the Prosecution and which strengthen the previous evidence which is considered as inadequate before, or further clarifications that lead to the truth.

- Article 220: The General Prosecution may cancel the decisions as having no basis to hear charges proceedings from all the members of the General Prosecution within the first four months after the issuance of the ruling. The Chief Prosecutor has the same right if issued within two months of the ruling made by members of the General Prosecution who fall under his authority.
- Article 221: If it becomes clear to the General Prosecution after the investigation that the incident [under investigation] is indeed a crime and the evidence against the suspect indicates that he shall be convicted and prosecuted, the criminal lawsuit shall be filed to the court of appropriate jurisdiction to review it accordingly.
- Article 222: If it a situation arose, after the ruling of referring the case to Court, whereby supplementary investigations are called for, then the General Prosecution shall carry out such investigation and present the Minutes [Report] to the Court accordingly.

## **Chapter Eleven**

### **Appeals at the Appellate Court with Respect to the Warrants and Decisions Issued During the Investigation**

- Article 224: Without prejudice to the provisions of Articles 218 and 210, the claimant for personal rights or civil rights [entitlements] may appeal with respect to the warrants or orders issued by the General Prosecution with respect to the fact that there is no basis for indictment procedures to continue at the Court of Appeals.
- Article 225: The defendant or suspect has the right to object to the warrants or orders that are related to his provisional arrest; all litigants have the right to object to cases concerning jurisdiction or areas of responsibility; the appeal as such shall not halt the progress on the investigation, nor will a ruling sustaining lack of jurisdiction annul the investigation.
- Article 226: The General Prosecution alone is entitled to appeal the warrant to release an arrested suspect detained provisionally.
- Article 227: The deadline for presenting an appeal is three days from the time of the issue of the order to release an arrested suspect in the case cited in the previous article and ten days in the other cases, which begin from the date of notifying the litigants accordingly.
- Article 228: Appeals are made for the Minutes [Report]s of the Clerical Department in the General Prosecution or in the Appeals Court of appropriate jurisdiction to reach a quick final decision in the Court Chamber [Deliberation chamber] after the opinion of the General Prosecution and the statements of the suspects have been given. In all cases the General

Prosecution shall send all the relevant papers to the Court of appropriate jurisdiction.

Article 229: The implementation of the warrant issued for the temporary release from provisional arrest of a suspect before the deadline has passed for the General Prosecution to appeal such a decision cited in Article 227 above; the decisive ruling will not be acceptable if the appeal is presented after such a deadline.

The Appeals Court shall decisively rule on the appeal within five days after the date of the Minutes [Report] of the appeal unless the General Prosecution decides that it will present an appeal to the Supreme Court, then the suspect shall be released immediately.

Article 230: If the appeal filed from the suitor for a personal right or civil right is refused in the cases where appeals are not allowed, the Court may rule against it in favor of the suspect with the appropriate compensations due if applicable.

## **Volume Three On Trials**

### **Chapter One On Authorities Assigned to Courts**

#### **Section One On the Jurisdiction of Subject and Place**

Article 231: The Primary Courts shall have the jurisdiction to decide on all penal cases within their local area of jurisdiction.

Article 232: The Appeals Courts shall have the jurisdiction to decide on all appeals of the decisions and rulings issued by all the Primary Courts within their local area of jurisdiction.

Article 233: The Supreme Court shall have the jurisdiction of appeals against decisions and rulings issued by the Appeals Courts and the Final rulings and decisions issued by the Primary Courts in the cases so specified by this Law.

Article 234: The place wherein the crime occurred or wherein the defendant resides or wherein the defendant is arrested shall determine the local jurisdiction. The jurisdiction is fixed to the Court to which charges is initially presented.

In the event of a mere initiation of a crime, the crime shall be construed to have occurred in all the places wherein any of the acts of starting to commit the crime accordingly.

Article 235: In crimes occurring sequentially; the other crimes of multiple acts, the place of the crime shall be considered any place wherein any of the acts involved, as such; in the crimes that are continuous crimes, the place of the crime shall be any place wherein the crime continues to be committed.

Article 236: If a crime occurs outside the territory where the laws of the Republic of Yemen are applicable; the perpetrator does not have a known residence in the Republic, nor is he/she arrested therein, the penal indictment be presented to the Courts in the Capital City.  
If the crime is partially committed outside the Republic and Partially within the Republic, the Court of competent local jurisdiction in the area, wherein the penal acts occurred within the Republic, shall have jurisdiction over the case accordingly.

## **Section Two On Conflict of Authority**

Article 237: If a Court finds that a penal case presented to it does not fall under its jurisdiction, it can issue a duly justified decision to refer the relevant penal case to the Court of competent jurisdiction, unless the Law decrees otherwise.

If the investigation in a case shows the occurrence of more than one crime that falls within the jurisdiction of numerous other primary courts; that the crimes were connected they shall all be referred by a single ruling to the court with that is concerned with local jurisdiction.

Article 238: If a penal indictment is presented for a single crime or for a number of interrelated crimes to two courts or more within the jurisdiction area of one Governorate Appeals Court; both of them or all of them) rule on the competence of their jurisdiction, or their incompetence thereof, by a final ruling; the jurisdiction is confined to both or all of them), a request shall be made to the Appeals Court of the Governorate they follow under to appoint the appropriate court. If both or all the courts) fall under different Governorate Appellate Courts, or if two Appeals Courts within a Governorate rule on the competence of their jurisdiction, or their lack of jurisdiction thereof, in the case of ruling on the appeal presented against a penal court ruling, or for the request for the appointment of the appropriate court of jurisdiction thereof, then the request for the appointment of the competent court of jurisdiction shall be presented to the Supreme Court, whose ruling thereon shall be deemed final and not subject to any objection or complaint of any form.

Article 239: If two conflicting rulings on a single penal indictment are issued by two courts that fall within the jurisdiction of one Governorate Appellate Court, a request shall be presented for the designation of the appropriate decisive ruling that shall be executed accordingly.

Article 240: Any of the litigants in a dispute have the right to present a request for the appropriate court that shall rule on the charges, which shall be accompanied by the supporting documents to the competent court of jurisdiction. The request for halting the proceedings in charges may result from this unless the Court sees otherwise.

Article 241: The Court shall order, after it has reviewed the request in the deliberation room, that the papers of a case) be deposited in the Clerical Department, where they can be reviewed by each of the other remaining disputants, whereby a note of their defense statements thereof must be

presented within ten days thereafter of the announcement of the deposit accordingly.

Article 242: The Supreme Court or the Court of Appeals shall quickly, after having reviewed the relevant papers in a case), appoint the Court, which shall be responsible for proceeding with charges; which shall also rule on the procedures and the decisions that may have been issued thereof by other Court, which have ruled to cancel their jurisdiction thereof.

Article 243: If the request is rejected, a decision may be issued against the applicant thereof, if the Party is not the General Prosecutor, to pay a fine that shall not exceed YTR 1,000.

### **Section Three**

#### **The Authorities dealing with Crimes on Ships, Airplanes and Crimes Committed Overseas**

Article 244: Yemeni Courts shall also have jurisdiction over crimes that occur on board ships at sea, which bear the Yemeni flag, whatever the citizenship of the perpetrators may be; over crimes that occur on board a foreign commercial sea vessel, whether it is within a Yemeni port or within Yemeni territorial waters. The jurisdiction shall fall upon the court under which the first port of anchor of the sea vessel so involved.

Article 245: Yemeni courts also have jurisdiction in ruling over crimes that occur on Yemeni aircraft, notwithstanding the nationality of the perpetrators thereof. They also have jurisdiction over deciding on crimes that occur on foreign aircrafts, if the perpetrator or the victim of a crime of Yemeni citizenship; if the aircraft lands in Yemen after the occurrence of a crime. Then, the Court of competent jurisdiction, wherein the aircraft landed, or wherein the defendant/perpetrator is arrested at the time of the aircraft landing, shall have jurisdiction over the case, or, as such, if the perpetrator is arrested anywhere in Yemen. If the defendant is arrested outside Yemeni territories, the Yemeni Courts can review charges.

Article 246: Yemeni courts have jurisdiction over the trials of all Yemenis, who actually commit crimes outside the territories of Yemen, which are by Law regarded as crimes, if the perpetrator returns to the Republic and the penal act has been punished for under the laws of the country wherein the crime is committed.

Article 247: The Yemeni courts shall have jurisdiction over those who commit crimes outside Yemeni territories, which threaten national security, as specifically provided for in Chapter One of Volume Two of the Penal Law, or crimes involving the forgery or fraudulent use of the stamps of the government, or those of the public authorities, or crimes involving the issuance, export, promotion, duplication, or carrying of counterfeit bills of legally negotiable national currency, with the attention of promoting or transacting such material.

Article 248: The provisions of the last three articles are effective even if the perpetrator has acquired Yemeni citizenship after committing the act with which he is charged.



- Article 249: The penal indictment against a perpetrator of a crime committed overseas may only be acceptable if it is presented by the General Prosecutor; in the cases other than those specified in Article 247, charges must be preceded by a complaint from the victim of the cases provided for in Article 27 and official notification thereof from the relevant foreign authorities wherein the crime is committed within their respective territories.
- Article 250: A penal indictment may not be upheld against a perpetrator if he presents evidence that he has been punished for the crime overseas, or has become null and void by virtue of the case being old. If partial punishment has been carried out, this shall be considered accordingly, as much as possible, when executing the sentence of the retrial of the perpetrator.

#### **Section Four On International Judiciary Delegation**

- Article 251: The provisions of this Section are only applicable where there are no agreements existing with other countries, or where such agreements do not have provisions which pertain thereto.
- Article 252: The General Prosecution or the Court may, while looking into charges, delegate any foreign authority to carry any initial or final investigation procedure or procedures. Such delegation shall be directed to the Foreign Ministry for notification thereof through diplomatic channels. In the event of urgency, this delegation can be addressed directly to the relevant) foreign judicial authority, which is required to carry out the measures. In this case, a copy of such delegation, with all the relevant documents thereto, shall be sent to the Foreign Ministry for notification thereof through the diplomatic channels.
- Article 253: The General Prosecution or the Courts shall accept judiciary delegations that are sent to them by any foreign authority. The delegation shall be implemented in accordance with the rules provided for in the Yemeni Law. The results of the measures, thus taken, shall not be notified to the foreign authority prior to the receipt of an official request thereto through the diplomatic channels if the delegation is addressed directly.

#### **Section Five On Transferring Charges and Appointment of Referees**

- Article 254: The Supreme Court can decide, based on the request of the General Prosecutor thereto, to have charges transferred from the Court of competent jurisdiction, under its oversight to another similar court in any of the following cases:
1. If the review of the case by the competent court of jurisdiction fear of endangering general public) security.

2. If the formation of the Court is not possible due to legal reasons, whereby, in such cases, the plaintiff or the defendant, may claim for personal damages that might ensue accordingly.
3. If the Supreme Court rules for the transfer of charges, its decision thereto must include, beside the appointment of the case that shall review the case, the fate of the rulings or decisions that may have been issued by the Court from which the case is transferred from accordingly.

## **Section Six**

### **On What is Being Litigated In Penal Charges and What Litigation Results into**

- Article 255: The Court reviewing a penal indictment is charged with deciding on all the matters that judgment be suspended, if the Law does not otherwise stipulate; if a non-penal matter is presented to the Court, the ruling on the penal indictment must be withheld - It shall withhold the decision on the penal indictment until a ruling has been made on the non-penal matter. The Court shall then take into account the ruling made on the non – penal matter, when returning to make its decision on the penal indictment itself.
- Article 256: If the ruling on a penal indictment must await the results of the rulings on another penal indictment, the Court must suspend its decision on the former indictment pending the issuance of a decision on the latter indictment, the result of which must be taken into account by the Court accordingly.
- Article 257: The suspension of charges shall not prevent carrying out all the required and urgent procedures and investigations.

## **Section Seven**

### **On Secondary Forgery Charges**

- Article 258: The General Prosecution and all litigants, notwithstanding the conditions of the case, can appeal/object for forgery of any of the papers presented in the case.
- Article 259: The appeal is recorded in the records of the Court reviewing charges, which shall identify the paper or document being objected to as being a forgery and the evidence of the forgery.
- Article 260: If the entity that is reviewing charges views that there are grounds for proceeding with the investigation of the forgery, then it shall refer the relevant papers to the General Prosecution; the Court can suspend charges, until a decision has been made on the forgery by the concerned authority, if the ruling on charges under review by the Court rests on the paper being objected to accordingly.
- Article 261: In the event of the suspension of charges, the ruling or decision whereby there is no forgery, calls for penalizing the Party charging that such a forgery existed a fine up to YR 5,000.

Article 262: If a ruling is made of full or Partial forgery of an official document, the Court deciding on the forgery shall order the cancellation or the correction of the paper, as the case warrants; report shall be written of this, on which the paper in question shall show the rulings accordingly.

## **Chapter Two Court Procedures**

### **Section One General Court Procedures**

#### **Division One Court Publicity**

Article 263: The sessions of the Court must be open to the public, unless the Court decides that some or all of the trial shall be closed, be attended only by those who are related to charges, for security and order, or for the maintenance of proper public conduct, or for fear of revealing confidential matters on the private lives of the Parties to charges, or in the case of widespread plagues and other communicable diseases. The Court can also prevent minors and people of improper appearance that undermines the prestige of the Court.

The public may be allowed to enter the Courtroom to the extent that the status permits accordingly.

Public Hearings are regarded as an important guaranty for insuring that justice proceeds properly.

In all cases the announcement of the verdict/ ruling must be made in a session open to the public.

#### **Division Two Court Transparency**

Article 264: The trial proceedings in Court shall be oral and the Court, in reviewing the case, shall look by itself directly for the evidence; it can question the suspect, the victim, the witnesses, the plaintiff of a civil case, the responsible civil defendant; it can hear the Minutes [Report]s/findings of the experts and examine the material evidence; recite the Minutes [Report]/reports; any other documents; it can also subject them to oral debate.

Article 265: Everyone who is questioned in Court) must respond orally and by memory, yet the Court can hear this person who is assisted by written notes<sup>2</sup>, in view of the conditions of the person, or the nature of the defense, or there is something which prevents him from responding orally.

Article 266: The Court shall order that the objects or articles), which were arrested, to the Courtroom, whenever this is possible; the defendant and the rest

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<sup>2</sup> The Arabic text also seems to imply that he can respond in writing, but again there is no clear stipulation as such.

of the litigants shall be able to look at them and comment on them during the trial hearings.

Article 267: The final pleadings by all the Parties must be orally made.

### **Division Three Continuation of the Trial**

Article 268: The review of the penal charges shall be done in continuous sequential sessions until the trial is completed unless the conditions of the case justify or necessitate the suspension or postponement thereof, in the conditions stipulated for in the Law.

Article 269: Regarding to the postponement of the hearing The Court shall proceed in the following cases:

If the person summoned to the Court did not show up at the appointment set therefore, then the remaining Parties may request the postponement of the hearing to a later date.

If the situation warrants the referral of the defendant to any of the official hospitals for examination and therapeutic treatment.

If the defendant is afflicted with a mental ailment during the proceeding of the trial; it is decided that he is unfit and unable to defend himself or for any other situations provided for in the Law.

### **Division Four Cases of Withdrawal, Rejoinder and Disputation**

Article 270: 1. A Judge may not be involved in the review of the indictment if the crime occurred to him personally, or if he had, in the indictment, carried out the task of the judicial enforcement officer, or the General Prosecution or the defendant of one of the litigants, or if he has given testimony in the indictment, or if he carried out the tasks of an expert in the case.

He is also not permitted to participate in making a ruling on the case in the cases if he carried out any of the acts of investigation or referral nor to participate in issuing the ruling on the appeal if the ruling being appealed was issued by him.

2. The Litigants may reject to have judgment issued by judges, in the cases cited in the last paragraph, and in all the cases of rejection cited in the Law of Litigation.

Neither members of the General Prosecution, nor the Judicial Enforcement Officers may be rejected.

The victim of is considered, with regards to the request for rejection, as merely being a litigant in the indictment.

3. The Judge should frankly declare of any of the causes of rejection in the Court, whereby the settlement of whether he should give up the case should take place in the discussion room, and the criminal judge should inform the Chief Judge in the Court of the matter accordingly.

Except for the reasons for rejection stipulated by Law, the Judge may present his request for giving up the case, if he found reasons to feel sensitivity in reviewing the case, to the Court or the Chief Judge of the Court, as the case may be, to decide on it accordingly.

- Article 271: A Judge is not suitable and must abdicate if:
1. If he is the victim of the crime.
  2. If he is a spouse, brother or sister and is one of the original or sub-branch relations to any of the Parties in the case.
  3. If he is the legal representative of the defendant or the victim or if he is a Party to the dispute.
  4. If he is involved in the case, in his status as representative of the General Prosecution, or a judicial enforcement officer, or lawyer of the victim or defense lawyer for the defendant.
  5. If he is heard in the case whereby he is considered as a witness, representative, expert or specialist accordingly.
- Article 272: Every judge who Participated in the making of a decision or ruling that is being appealed shall not be fit to take part in the review of the appeal filed at the Courts of Appeal.
- Article 273: A rejection of a judge may be requested in the following cases:
1. If any of the situations stipulated in Article 271); the Judge himself did not abdicate accordingly.
  2. In the cases stipulated in the Law of the Judicial Authority and Litigation.
- Article 274:
1. The General Prosecution, the Defendant and the Claimant of Rights or the one suing for a civil right and the civil defendant can present the request for rejection of the Judge.
  2. The request of rejection with the justifications thereof shall be presented to the Court to whom the relevant Judge belongs to; the relevant Judge shall express his views on the request for rejecting his judgment. In all cases the request must be made at the start of the first hearing.
- Article 275: The Court shall rule on the request for rejection in a session to be held in the deliberation room; the Judge that is being requested to be rejected, shall be replaced by someone acting on his behalf, as such. If the matter is related to a member of a tribunal, the Head of the Tribunal and the other member; a new member to be called in for this purpose can review the matter. If the request for rejection included two members of the Tribunal, two other members must be called in to look into the request with the Head of the Tribunal. If the matter called for the rejection of the Head of the Tribunal and the two members, a higher level Court shall look into the matter.
- It is not necessary for a ruling to be issued by the Court on the request for rejection, if the Judge, who is being rejected in the request thereof, acknowledges the soundness of the request and the reasons for it accordingly.
- If the Court becomes unfit due to the removal of one of its members whose rejection is requested, then a Court of a higher level shall look into the request in the deliberation room of the Court.

- Article 276: The Court, itself, as it is in session in the deliberation room, can examine what reasons are revealed to it that call for the abdication or the rejection being requested.
- Article 277: The above rules are applicable also for the abdication or rejection of the members of the General Prosecution and the Secretary of the Hearing in accordance with the Law.  
The Court shall decide on the abdication of the representative of the General Prosecution and the Secretary of the Hearing during the trial. The Heads of the members of the General Prosecution shall decide upon the request for abdication and rejection of the members of the General Prosecution and the Judicial Enforcement Officers, during the investigation in accordance with the procedures that are applicable to the judges; the General Prosecutor shall decide upon the request for the abdication or the rejection of the Heads of the General Prosecution and the General Attorneys in accordance with the provisions that are related to the judges accordingly.
- Article 278: Unless otherwise stipulated, the provisions of the Law of the Judicial Authority and the Law of Litigation are applicable.

## **Section Two On Special Procedures for Some Cases**

### **Division One On Mentally Retarded Defendants**

- Article 279: If the situation calls for the need for the examination of the mental condition of the defendant, the General Prosecution or the Court reviewing charges, after having heard the views of the General Prosecution thereon, may order that the defendant be placed in a government hospital that is specialized for this for a period or periods that shall not exceed, in total, 45 days, after hearing the defense lawyer) of the defendant, if he exists. If the defendant is not under provisional arrest, the Court could order that he be placed under surveillance in another location.
- Article 280: If it is found that the defendant is unable to defend himself due to madness or another mental ailment that he became afflicted with after the occurrence of the crime, his indictment or trial shall be suspended until his mental sanity is restored. In this case, the General Prosecution, or the Court that is reviewing the case, may issue an order to confine the defendant in one of the General Hospitals of the Government that are specialized for this, until a decision is made for his release, or for turning him over to one of his relatives or friends, whereby the latter must undertake to care for him and prevent him from inflicting any harm to himself or to others and to present him upon demand.
- Article 281: The suspension of charges shall not prevent carrying out the necessary investigative measures that are regarded as necessary or urgent<sup>3</sup>.

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<sup>3</sup> This probably implies national security or other serious crimes of an urgent nature.

Article 282: In the cases stipulated in Articles 279 and 280) above, the period that the defendant spends under surveillance in confinement shall be deducted from the prison term that he is sentenced to.

Article 283: If an order is issued that there is no call for carrying out charges, or an innocent verdict is passed due to the absence of responsibility in view of a mental ailment; if the penal is dangerous, or if the crime is regarded as one of the serious crimes, the entity that issued the order or the ruling shall order the defendant be placed under confinement in one of the Government hospitals that is equipped to care for treatment of mental ailments, until the entity that issued the ruling or the order, orders or decides upon his release, which shall only be done after reviewing the Minutes [Report] of the Manager of the Hospital; hearing the statements of the General Prosecution, in those cases where the confinement order is not issued by the latter; after it has been verified that the defendant has returned to sanity, or that the threat he posed has been cured.

## **Division Two On Trials of Minors**

Article 284: The Law Concerning Minors shall cover the formation of the Minor Courts and the procedures to be followed in the investigation, trials, punishments, arrangements, therapeutic methods that are allowed to be carried out on them.

## **Division Three On Court Procedures of Suspects at Large**

Article 285: If an order is issued to refer a defendant of a crime that calls for his presence to court personally; he does not attend on the specific hearing after being notified thereof, the Court can notify him of another hearing; if he does not attend, the hearing is postponed to later date and the Court can order that an announcement is issued of the defendant's escape, through any of the media channels, if he could not be compelled to attend.

Article 286: An attorney or any of the relatives, spouses can attend Court on behalf of the defendant; present the excuse for the defendant's absence. If the Court believed the excuse to be satisfactory, it shall set a date for the presence of the defendant, with due consideration to the nature of the excuse accordingly.

Article 287: The circulation of the defendant being a fugitive from justice shall include a summons for the defendant to be present within one month from the date of the announcement. If he still does not attend by the end of this period he shall be considered as a fugitive from justice.

Article 288: Any defendant/suspect who escapes after having been arrested or arrested, or who does not have a recognized or known place of residence, or that evidence is found that he has concealed himself shall be considered as a fugitive from justice. But he shall not be considered

as such if the defendant has attended some of the hearings of the trial, but failed to attend the rest of them, without an acceptable excuse.

- Article 289: The Court may assign a “replacement” to act on the fugitive’s place from among his relatives up to the Third Degree, if possible, otherwise then it can appoint an accredited lawyer, in which cases the Court can review the case as though the defendant is present. The Court shall follow the rules adopted for trials-in-presence and shall decide on charges, whereby its ruling thereof shall be construed as a ruling in – presence. Except in the case of a verdict of religious jurisprudence set penalty or vindictive penalty, the defendant can still defend himself when he attends or is arrested thereafter.
- Article 290: In the cases where the defendant is regarded as a fugitive, the Court can order the confiscation of his assets and they are not to be dealt with or transacted or carrying out any claims against them; all undertakings or commitments that are otherwise made. The provisions of the confiscation order shall then be followed after the signature of the impoundment accordingly.
- Article 291: The assets of the fugitive confiscated shall be managed in pursuant of the rules decreed for the management of the impounded assets.
- Article 292: The Court shall decide on a monthly support payment, from the revenues generated by the impounded assets of the fugitive and from his entitlements, to be paid to the dependents of the fugitive prior to his escape.
- Article 293: If the convicted fugitive surrenders himself, or if he is arrested, the Court may order for his release with bail or without bail. If he presents to the Court that issued the verdict on him an excuse of being forcefully unable to attend; he is unable to present it prior to the verdict, the Court shall inform him of the proceedings that transpired in his absence. If he objected to any of them and requested that any of these procedures shall be repeated, the Court can decide on this objection by a ruling that can be appealed. If the Court, thus, accepts the objection and this leads to the Court having to change its views, the Court can revise its judgment without damages to the defendant; or else it the previous decision) shall stand. The provisions of the previous paragraph does not apply to th3e Stages of Appeal.  
If the fugitive attends or is arrested prior to the issuance of the judgment o, the Court shall inform him of the procedures that transpired in his absence, if he objects to any of them and he requested that they be repeated, the Court shall rule on this objection and the review of charges shall completed in accordance with the usual procedures. The Court in this case can order the provisional arrest of the defendant.
- Article 294: The proceedings of the trial of a fugitive in absentia) do not mean that the decision on the case shall be postponed with regards to the other suspects/defendants who are present, unless Partitioning, as such, is not possible, or if during the arrival to the) decision on charges, an opinion as to the fugitive defendant can be arrived at.
- Article 295: The “replacement” of a fugitive) has the right to claim from the defendant the fees ruled by the Court, based upon his request accordingly.



## **Division Four**

### **On Court Procedures of Emergency Cases**

- Article 296: The urgent trial proceedings shall be undertaken in the following cases:
1. Economic crimes such as bribery, theft, etc.) as stipulated in the Penal Law or other laws.
  2. Crimes related to any kind of defects in the transportation system.
  3. Crimes that occur through newspapers or by any other means of publication.
  4. Witnesses crimes, if the General Prosecution so requests.
  5. Crimes, in which the defendant is presented to trial therefore, under arrest, as long as the Court does not decide for the release thereof.
  6. Crimes, whose victims are members of the Judiciary Authority or a public employee while they are performing their jobs or because of this.
  7. Crimes involving environmental pollution
- Article 297: Exceptional to the rules decreed for the trial of fugitive defendants, if any of the litigants does not attend on the scheduled hearing for review of charges; he is not personally informed, the Court shall postpone the review of charges to a later hearing, which he shall be notified of accordingly. If he does not attend after that, an order for his arrest is issued. If this is not possible, the Court) shall appoint a “replacement”, with the trial proceeding with his presence; the ruling that is issued after that in-presence, as far as he is concerned.
- Article 298: If any of the litigants attends any of the hearings or deposited a memorandum of his defense, the litigation shall be considered as “in-presence” as far as he is concerned in accordance with the provisions of the previous article, even if he is absent thereafter.
- Article 299: Charges shall be reviewed in a hearing that shall be held within one week from the date of referral to the relevant Court. This Court must review the case in subsequent hearings, as much as possible and shall make a ruling on it rapidly.
- Article 300: In the fines and imprisonment, the sentences to be meted out, for indictment of the crimes mentioned, in effect, notwithstanding the appeals thereof, unless the Governorate Appeals Court orders the suspension thereof.

## **Division Five**

### **On Summary Proceedings**

- Article 301: In crimes that have punishments that do not go beyond fines, and also the crimes that are punished by the payment of damages for injuries<sup>4</sup>, the General Prosecution can arrange for a settlement thereof, where it shall suffice, in the former case, to affect the fine it estimates; in the latter case the compensation it estimates, if both Parties thereto agree accordingly. Otherwise the case shall be brought to the Court under

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<sup>4</sup> Physical injuries to a person are subject to compensation, called “arsh”, according to Islamic jurisprudence, with each type of injury having a set amount.

Summary Procedures, where the defendant confesses to his misdeeds; the crime involved is not so serious, with the trial possible immediately, without having to go through the conditions or terms stipulated under the usual and rapid trial procedures.

Article 302: The Court shall proceed with the summary trial without having to notify the defendant the statement<sup>5</sup> of the charge against him, whereby it shall suffice to recite the charge to him by the Court orally, at the start of the trial; the Minutes [Report] of the hearing shall record only the core of the charge against him accordingly.

The defendant need not be compelled to attend, since he is already present, or the prosecution summoned him. If he is summoned to attend then it shall be within 24 hours.

Under summary trial proceedings, the normal trial procedures shall be followed, whenever this is possible. If the Court, however, evades the summary procedures at any time up to the issuance of the verdict, such decision is not subject to appeal or objection. In such a case, a new statement of the charge needs to be presented and the defendant shall be tried under the normal trial procedures.

If, after having taken the above mentioned measures, the Court is convinced that the defendant did commit the crime he is charged with, it shall issue a ruling convicting him thereof; the punishment that shall be imposed on him accordingly. It also can rule on the punishments...<sup>6</sup>. If the crime is not proven as such) the Court shall rule with a verdict of innocent....

## **Division Six On Apportionment Procedures**

Article 303: If the heirs to a victim of a fatal killing request to have their charges confirmed by means of sworn depositions; the conditions for such a request have been met, the Judge shall issue a decree instructing them, or their legal representatives to present a signed list signed by them, or their legal representative, in which they show the names of 50 of those, from among those who they accuse of the killing or wounding the victim, to get them to swear at the date the Judge shall set accordingly.<sup>7</sup> The occupation and place of residence shall be shown besides each name and his connection with the shared sworn deposition. This list shall be submitted to the Administration<sup>8</sup> of the Court.

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<sup>5</sup> The original text uses the word “journal” of charges, which is probably drawn up by the General Prosecution in the indictment presented to the Court.

<sup>6</sup> The original text copy did not have the end of the last two lines on page 82.

<sup>7</sup> This apparently involves the case where the actual killer is hard to pinpoint but could be among a number of possible suspects known to the victim’s heir. Thus the Court will seek to get sworn statements from the people in the list, in the hope of determining the actual killer or suspect, fearing the consequences of swearing to a lie, or as a last resort to hopefully get their rights to blood money, which in Islamic jurisprudence falls within the estate of the deceased and goes to the heirs according to specified shares, like the rest of the deceased assets. This part of the article may have a couple of lines misplaced in the original text.

<sup>8</sup> The secretarial organ of the Court

- Article 304: If the number of those given in the list is less than 50 persons, the list shall include confirmation by the blood heirs or their legal representatives that there are no other suspects to be made to swear; it shall also include those selected from the list to complete the 50 sworn depositions accordingly.
- Article 305: The Administration of the Court must notify the people in the list of the presentation of the list to Court; summon them to be present in Court facing the Judge in the hearing which he shall set. If any of them have any objection thereof, then they shall present their written objection to the Administration of the Court prior to the scheduled hearing, or shall present the objection at the hearing. No other objections shall be accepted after the first hearing.
- Article 306: The Judge shall rule on the objections filed to what is in the list after having heard the statements of both Parties and their witnesses, and after looking at) the papers and documents presented by them. The decision made, as such, shall not be subject to appeal or objection thereof.
- Article 307: After the decision has been made on the objections, if the situation requires that the number of selected suspects shall be completed to 50), the Judge then can issue a decree instructing the blood heirs to present an annex to the list, which shall be notified; the objections thereto need to be decided upon in accordance with what is stipulated in the preceding articles.
- Article 308: When the opinion of the Court has settled on the selected persons to swear, the Court then instructs each one of them to make the legal sworn deposition that he has not killed or wounded the victim), nor does he know the killer or the perpetrator of the injuries.

## **Chapter Three**

### **On the Litigants and the Presentation of Charges**

#### **Section One**

#### **On How to File Charges and Notifying Opponents**

- Article 309: Without prejudice to Articles 21, 23, 27, 36 and 37), the penal indictment shall be presented to the Court of competent jurisdiction by the General Prosecution, by summoning the defendant directly to be present at the Court, at the specified hearing. The summoning of the defendant may be forfeited, if he attended the hearing and the General Prosecution directed the charge to him and he has accepted the trial therefore accordingly.
- Article 310: The summons for the attendance of the defendant, which is written by the prosecutor or the responsible clerk, as the case may be, shall include the following:
- A. The name of the plaintiff, title, status, occupation and residence.
  - B. Adequately show the identification of the suspect/defendant showing his name, title, age, vocation and residence. If there is no known residence for him then the most recent last residence.

- C. Date of presentation of the supplication.
- D. The name of the Court to which charges shall be presented.
- E. Show the selected place of residence of the plaintiff in the area of the Court, if he has no home in it.
- F. A brief and adequate description of the crime in charges, showing the acts that the defendant is accused of committing, the time, place, circumstances thereof and how it is committed and other relevant matters necessary for its occurrence.
- G. A description of the evidence of the occurrence of the crime and against the defendant; mention of the witnesses and their testimony and the material evidence and other objects confiscated, with reference to be given to the measures taken by the Judicial Enforcement Authorities; the investigating authority; the results thereof up to the date of the presentation of charges. The clerk shall, in the case of charges presented by a plaintiff for a personal claim, be sure to complete the summons in the form of the data mentioned above accordingly.

Article 311: The General Prosecution, by itself, or based on the summons presented by a plaintiff with a personal claim, shall set the hearing in which the charge/indictment shall be reviewed, in coordination with the Head of the Court, and shall notify the defendant of the summons and shall instruct him and all the litigants and witnesses, who it believes shall be summoned to attend this hearing, whether the plaintiff attested to them during the initial investigation or not,

Article 312: The litigants shall be summoned to be present in the Court three full days prior to the date of the hearing, not including the days for travel thereto, unless the Court sees benefit to speed, thus deciding to shorten the date, as it sees appropriate, based on the request of the General Prosecution or other litigants. It shall indicate on the summons the charge, the relevant articles in the law that specify the punishment thereof. In witnessed crimes and crimes that are reviewed Under Urgent Hearing Proceedings the summons to attend shall be without any dates. If the defendant attends and requests another date to present his defense, the Court can permit him to attend on the date set in accordance with the first paragraph.

The notification of the summons to attend shall be notified to the person for whom it is directed to, or at the place of the latter's residence in accordance with the provisions of the Law. If the search for the residence of the defendant is fruitless, the summons shall be submitted to the administrative authority in which his most recent last residence falls under the jurisdiction of, unless proven otherwise.

Article 313: An imprisoned defendant shall be notified through the director of the Penal Institution, or the one acting on his behalf. For notifications to the men in the Armed Forces, this shall be done through the unit command/administration they fall under. The concerned employee may not refuse to receive the notification without a satisfactory reason not to do so; otherwise he shall be punished up to YR 3,000. Whoever receives the summons notification shall submit it to the person to whom it is addressed to, and shall take all the necessary measures that enable him to be present at the specified date thereof, otherwise, he shall be

guarantor for any damages that arise accordingly due to his shortcoming as such.

Article 314: The litigants have the right to review the papers of charges/charges by themselves, or through their attorneys, once they have been notified of the summons to be present in court.

## **Section Two On the Attendants of Opponent**

Article 315: Any defendant of a crime must attend the trial by himself, although the Court can choose to suffice with the presence of his Attorney, if the crime involved is only punishable by a fine.  
The rest of the litigants must attend in person or through their attorneys; the Court can order their presence in person if it saw any advantage to this.

Article 316: The representative of the General Prosecution must attend the hearings of the trial in all the penal charges being reviewed by the Court. The Court shall hear his statements and shall rule on his requests; or else the penal proceedings shall be regarded as null and void.  
The prosecution must announce the dates of the hearings of the trial within adequate time. Any measure that is taken during the absence of the prosecution is considered as inadmissible.  
If a new member of a General Prosecution, or a new member of the defense attorney for the defendant Participate in a case he must be given sufficient time to prepare their pleadings accordingly.

Article 317: In the cases where the presence of the representative of the defense is obligatory, he is not allowed to leave the hearing without the permission of the Court.

## **Chapter Four Trial Process**

### **Section One Running Court Sessions**

Article 318: In order to arrive to the truth in the crime) from all its aspects, the Court must show its reasons, conditions and the personality of the perpetrator, as a primary condition for determination of penal liability thereof, with a view towards arriving to a just ruling accordingly.  
The hearings of the trial must be conducted in a manner that files the confidence of the public in the justice of the Courts and their contribution in the restoration of honor of the citizen who deserves punishment and the realization of the deterrence of any potential future crimes

Article 319: The Head of the hearing is the one who shall manage the proceedings of the trial.

The Head of the Hearing shall make that the dignity of the citizens and all the Parties involved in the case respect the Court Tribunal.

The Head of the Hearing may kick out anyone violating the general in the Courtroom. He also can mete out an immediate punishment on anyone who is disorderly, by imprisonment for 24 hours or by the imposition of a fine that is up to YR 2,000.

If one of the Parties objects to a decision issued by the Head of the Hearing, in the area of conducting the hearings, the Court Tribunal shall proceed with dealing with the objection filed.

The member of the General Prosecution shall oversee the maintenance of order in the Courtroom, in the absence of the Court Tribunal.

Article 320: The Secretary/Recorder of the Hearing shall write report of the trial hearing; he shall record in these report all the measures and decisions issued by the Court, as well as the statements of the witnesses the decisions, requests and objections of the litigants; in general all that occurs during the hearing.

## **Section Two On Evidences**

### **Division One General Principles**

Article 321: No conviction unless it is based on evidence.  
The appreciation of the evidence shall be according to the persuasion of the Court, in light of the concept of the integration of the evidence, as there is no evidence that enjoys the strength of evidence in advance of persuasion thereof.

The burden of proof of any occurrence lies on the plaintiff, unless stipulated by Law otherwise.

Article 322: No occurrence that results in any penal accountability on any person except by means of lawfully admissible evidence and only through measures set by Law accordingly.

Article 323: The following are regarded as evidence of proof in a penal indictment:

1. The testimony of witnesses.
2. The Minutes [Report]s of experts
3. The confession of the defendant.
4. The documents, including the official reports associated with the personality of the defendant, or the facts on the crime and the other means of evidence and proof accordingly.

### **Division Two Equality in Corroboration Rights**

Article 324: All the Parties in a case are equal in the rights and responsibilities, including the defendant, the representative of the defense, the civil plaintiff and the liable civil defendant. They all have the right to present

evidence, to discuss it and to request that experts examine it after the approval of the Court accordingly.

Article 325: The Court must respond to the requests related to proof of the facts that are developing for them, as long as the evidence requiring proof helps to reveal the truth. The Court shall notify the Parties of their rights to present their requests. If the request is presented late, the Court may close the hearing temporarily in order to enable all the Parties to revise their pleadings accordingly.

Article 326: The Court can, during the proceeding of the trial, even if no request is presented therefore, decide by itself to hear new witnesses, to seek the assistance of experts and to review documents and other evidence.

### **Division Three On Witnesses and Other Evidences**

Article 327: Witnesses shall be summoned to attend based on the requests of litigants, through a summons officer or any enforcement officer prior to the hearing by 24 hours, other than the travel time, except in the case of witnessed crimes, which are reviewed through Urgent Trial Proceedings, whereby they can be summoned to attend at any time, even orally through any of the Judicial Enforcement Officers or any enforcement officers.

The witness may attend the hearing without notification, based on the request of the litigants thereof. The Court shall hear any person who attends by his own choosing to present information on charges.

Article 328: If the witness fails to show up in the Court after being summoned to do so, the Court can delay charges review, if it considers his testimony essential, in order to resummon him to attend and it can order that he be brought in.

The Court can, during its review of charges, can call and hear the testimony of a person, even if by means of issuing an order to fetch him in for this purpose, if it sees that necessity dictates as such. It can order that he be summoned for his presence in the Court at another hearing Through the Summons Officers in the Court or the personnel of the general authorities.

Article 329: If the witness is present after being summoned – for a second time – or by his own choosing; gave an acceptable excuse therefore, after hearing the views of the General Prosecution the Court may waive the fine due from him accordingly.

If the witness does not show up for the second time to Court, the Court can order his arrest and attendance at the Court for the same hearing or another postponed indictment hearing.

Article 330: If the witness presents an acceptable excuse for not being able to attend, the Court can move over to hear his testimony after notice to this effect has been given to the prosecution and the rest of the litigants. The litigants may attend by themselves or through their attorneys and they may direct questions they see need to be directed to the witness accordingly.

- Article 331: Witnesses may not be prevented from attending Court for whatever reason.
- Article 332: The Court can request any person prior to, or during the trial, even if by means of a summons; it may issue an order to any person to present whatever is in his possession, if this is of benefit in the case. It can order the arrest of any person related to the case or who can be useful in revealing the truth. If the latter presents documents or any other objects during the trial, then it can keep him until the case has been decided on. His hand over is not allowed except through a decree accordingly<sup>9</sup>.
- Article 333: The defendant and the other litigants even before closing the pleadings can request to hear any witnesses they want, or can take any other measure. The Court must fulfill the request, if it sees benefit out of this for the case; it can refuse the request, if it sees this to be just to prolonging the time or to manipulate the trial or misguide the Court.
- Article 334: The Court can seek the assistance of an expert or more than one expert on any matter that increases its comprehension. The expert shall present his views in a written report signed by him.  
The Court can debate this in the hearing and all the litigants can present a consulting report by an expert on the same matter as well.
- Article 335: If the defendant or one of the witnesses is not conversant in the Arabic language, the Court can seek the assistance of an interpreter; the provisions pertaining to the experts shall apply to the interpreters as well.
- Article 336: The defendant, the General Prosecution and the civil plaintiff can request the rejection of the interpreter, but they have to give their causes for this; the Court must decide on the matter. The selection of the interpreter can not be from any of the witnesses or the members of the Court that is looking into charges, even if the litigants all approve this, otherwise the proceeding shall be deemed to be unsound.
- Article 337: If the defendant or the witness is deaf or mute; is unable to write, the Judge can appoint an interpreter between him and the Court who is able to communicate with similar individuals by means of sign language or the other technical means accordingly.
- Article 338: If the deaf or mute witness or defendant is able to write, the Hearing recorder shall record the questions and comments to be given to him, to which he responds to them in writing; the court clerk shall be responsible for all of this during the session.
- Article 339: The witnesses and the experts need not sworn in, unless the Judge sees otherwise.
- Article 340: The physical evidence are objects, which by their formation or by themselves or by their connection with the occurrence under study; which lead to findings or conclusions about the crime, its causes and conditions; about the defendant, such as the instrument of the crime; the objects that contain any of the remains of the effects of the crime, currency and other objects of value obtained from the crime. The physical evidence shall be presented during the trial. If this is impossible due to the nature of the material, photos and drawings shall be drawn of them and they shall be annexed to the file.

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<sup>9</sup> It is not clear who shall the witness in question here be “handed” or “turned” over to.



- Article 341: The documents are all written paper, or any information prepared in any other manner, which contains what could be significant in revealing something about occurrence or its causes and conditions and about the defendant's personality. The originals of these documents shall be presented and kept along with the file. These documents shall be shown during the trial as necessary.
- Article 342: The physical evidence shall be kept with the file of the case and shall be accompanying it wherever it is referred to, from entity to entity. If it is not possible to keep the physical evidence, due to their size or for any other reason, it shall be photographed and maintained in a safe place, with the appropriate evidence to this effect shown in the file of the case accordingly.
- Article 343: The physical evidence shall be kept until the issuance of the ruling that is not subject to any appeal or objection or until the case is finalized. If a dispute arises as to the entitlement of anything that shall be kept, then it shall be kept until the decision that is not subject to any appeal on this dispute is issued accordingly.  
The physical evidence may be returned to their owners prior to the expiry of the dates indicated in the previous paragraph, whenever this does not effect the proceedings of trial procedures of the case.  
If the evidence is perishable, the matter shall be presented to the Court, which shall order how they shall be dealt with, in the manner that it sees fit accordingly.
- Article 344: The ruling or decision of the Court) shall include the fate of the physical evidence and the documentary evidence, as follows:  
The papers of the crime shall be confiscated and shall be handed over to the concerned entity, or they shall be destroyed.  
The objects that are not negotiable shall be handed over to the concerned entity or they shall be destroyed.  
The articles that are not of any value shall be destroyed or turned over to their owners, based on their requests for them.  
Currency and all the other objects of value that were obtained from the crime shall be turned over to the Government Treasury, if the Court is persuaded that there is no other owner for them. If a person claims ownership thereof, the Court shall proceed with the request in its ruling. If the owner could not be determined, or if the ownership thereof is subject to dispute, the matter shall be dealt with through civil proceedings.  
The documents shall be submitted to the person or entity concerned.
- Article 345: The rules specified in Section Nine of Chapter Three of the Second Volume of this Law are applicable with regards to the experts testimony of proof during the trial.

**Section Three**  
**On the Review of charges and the**  
**Arrangement of the Proceedings for the Hearing**

- Article 346: The General Prosecution shall submit the complete file of the case containing all the papers, evidence and reports thereof to the competent court of the subject to assist it to deal with the case.  
The responsible Court clerk shall give a receipt of the file and its contents to the representative of the General Prosecution, whereby he shall insure that the contents conform to the counterpart original contents of the file kept with the General Prosecution to insure their safekeeping.  
The file shall be finally returned to the General Prosecution after the ruling has become final on the case. If it becomes necessary to return the file to the General Prosecution for completion of the requirements set by the Court, it shall be submitted in the same manner that the file is received<sup>10</sup> by the General Prosecution. In the event of the loss of the file or any of its documents or contents, the responsible clerk shall be penally liable therefore.
- Article 347: What is stipulated in the Law of Litigation, in addition to the following articles shall be applicable accordingly:
- Article 348: The defendant shall come to the hearings without handcuffs or leg irons), but the required surveillance shall be undertaken on him, yet the General Prosecution or the Court can order that he be brought handcuffed or leg ironed if necessity so dictates.
- Article 349: The defendant may not be thrown out during the review of charges, except if he acted disorderly, whereby the proceedings shall continue with his attorney or “replacement” facing the Court in his place, until the trial can proceed with his presence. When he returns, the court shall notify him of the proceedings that went on during his absence.
- Article 350: The investigation in the hearing shall start by the Judge asking the defendant his name, title, age, vocation, place of residence and birth. He shall notify him to hear all that is being recited to him. He shall then order the Hearing Clerk to recite the accusation the defendant is charged with, and shall hint to him to pay attention to the evidence, which shall be used against him.
- Article 351: The member of the Public Prosecution shall explain the reasons for the charges and the facts about charges and the and the reading of the list of his witnesses and of those of the defense is then requested, which the Court Clerk shall do. The Civil plaintiff, if present or his attorney, can explain the reasons for the charges against the defendant also and his requests following the member of the General Prosecution.
- Article 352: The Judge shall ask the defendant, after the completion of the measures referred to in the previous two articles above, if he is confessing to committing the crime that he is being charged with or not. If he confessed to have committed the crime, the Court shall discuss with him in detail about it until it is assured that the confession is genuine, whereby his confession shall then be recorded in words that are close to the words he used in the confirmation of his guilt. The court may suffice with this in its ruling; it also has the right to complete the investigation if it saw a need as such.

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<sup>10</sup> It is more than likely that there is an error here as it would seem that the file is submitted by the General Prosecution to the Court and not the other way around.

- Article 353: If the defendant denied or refused to answer, or if the Court is not persuaded by his confession, the Court can begin with the investigation by listening to witnesses of proof and negation as follows:
1. Each witness shall present his testimony separately; he may not be interrupted while giving his testimony.
  2. After the Judge asks the witness his name, title, age, occupation, residence and address; if he knows the defendant before the crime occurred; if he is employed by any of the Parties of the case, or related to any of them; if so, to what degree, he is then asked to legally swear, after which, then, he can give his testimony orally.
- Article 354: 1. The Court shall hear the witnesses of proof; the Judge shall ask the witness, after having completed his testimony, if the defendant, who is present in the Courtroom, the one referred to in his testimony. Then he asks the defendant if he has any objections to the testimony of the witness. The General Prosecution shall first direct their questions to the witnesses, to be followed by the Personal Plaintiff, then the Civil Plaintiff, then the defendant and then the Officer in Charge of the Civil Claims.
2. The Court can permit to re-question the witness by any of the Parties involved in charges, in order to clarify any of the new occurrences that he mentioned in his testimony or during the questioning thereof.
- Article 355: The Court can decide whether to recite the testimony provided during the primary investigation, or in the Minutes [Report] on the gathering of evidence, or by the expert, if the relevant witness could not be heard, for any reason whatsoever; if the defendant and the representative of the defense agree as such.
- If the witness decides that he is unable to remember any of the events, or if his testimony at the hearing conflicts with the previous testimonies he may have given, then it is permitted to recite the testimony he declared in the investigation or in the Minutes [Report] for the gathering of evidencing testimonials, in particular the Part that refers to this event. The Judge then orders the Hearing Clerk to record what shows conflict between his current testimony in the Court and his past testimony, in terms of any additions or deletions or changes or differences, after he has sought clarification from the witness the reasons that these inconsistencies have appeared as such.
- Article 356: Any of the litigants may request that any of the witnesses be withdrawn from the courtroom during the testimony of another witness, or the entry of one or more witnesses, who were withdrawn, in order to repeat his testimony separately, in the presence of some of them. The Judge may take this measure by himself. The Court must prevent directing questions to the witnesses that are not related to the case, or that are not of any benefit, or if they were in order to influence the witnesses, or to hint to them; the Court shall protect them from any expressions, instructions, guidance and every other attempt to scare them or confuse them. The Court shall also prevent directing any questions to the witnesses that of a nature that seek to embarrass them or annoy their feelings, unless such questions flow right into the main occurrences that are useful in the proper determination of the facts of charges or on which a ruling can be based upon accordingly.

- Article 357: If it becomes clear to the Court that one of the witnesses or experts or interpreters had lied, then the Court can refer him to the General Prosecution to investigate him, by its own choice, or based upon the request of the General Prosecution accordingly.
- Article 358: When charging any of the witnesses of false testimony, the General Prosecution; the personal plaintiff and defendant can, if the testimony has an impact on charges, request postponement of the review of charges until a ruling has been made as to the propriety of the testimony, or its falsehood. The Court can decide this by its own choice.
- Article 359: The Court can show the defendant during the review of charges the confiscated articles that are related to the crime and which lead to proof thereof and it can question him on the extent of his link to these articles and it can also do this with regards to the witnesses or with any one who has anything to do with charges.
- Article 360: The Court cannot cross examine the defendant unless he accepts this; if during the pleadings; debates events appear that require the presentation of clarifications thereof by the defendant to reveal the truth, which the Judge has shall inform the defendant as such, whereby he is permitted to present such clarifications accordingly. The Court can ask the rest of the litigants, except the General Prosecution and can permit their opponents to respond accordingly.
- Article 361: If the defendant is prevented from answering, or if his testimony at the hearing conflicting with his testimony in the Minutes [Report] of testimonial evidence and the Minutes [Report] of the investigation, the Court can order the recital of his initial statements.
- Article 362: The defendant and the representative of the defense, after hearing charges charge can request that the legal description thereof be amended, if such a request is based on proper references and justifiable reasons thereto. The Court shall rule on this request after having heard the response of the prosecution thereto.
- Article 363: The defendant may not be subjected to torture, if he refuses to respond to any of the questions that are directed to him, or if he responds to them incorrectly, as this is considered to be a denial, after which the truth is bound to be heard.
- Article 364: After hearing the testimonies of the witness of proof; the witnesses of negation; the comments on them that were brought forth, the Court can give the right to the Personal Claims Plaintiff to speak, or to his representative, then to the plaintiff for the Civil Right, to be then followed by the General Prosecution and the Officer responsible for the civil rights, to allow them to comment on the statements of the defendant and the Officer responsible for the Civil Rights, whereby the latter two shall have the right to answer thereto. The Court can prevent the defendant or the defense representative from excessive speaking during the pleading, if this entailed speaking out of the context of the topic of charges or if it entailed a repetition of his previous sayings, after which the Court can issue its decision to close the pleadings in the case and issue its ruling.

## **Chapter Five On Court Rulings**

- Article 365: A defendant shall not be punished for any crime except that which is given in charges record or the summons paper. Also, the ruling shall only be concerned with the person on whom charges is served accordingly.
- Article 366: The Court can amend the legal description of the act that is charged against the defendant and it can also correct any material error and bring up anything that could have been forgotten in charges record or summons to attend. In all cases, the Court shall notify the defendant of this change, and shall grant him time to present his defense, based on this amendment to the description and the new revision, if required accordingly.
- Article 367: The Judge shall rule on charges based on the belief that developed with him freely through the trial. Yet he cannot base his ruling on any evidence that is presented to him during the hearing.
- Article 368: If the Court that is reviewing charges consisted of more than one Judge, the ruling shall be issued after completion of the deliberation thereof. These deliberations shall be among the judges in the Court Tribunal during the deliberation meetings. Only the Judges that heard the pleadings can participate in these deliberations.  
The Court cannot allow any of the litigants, or their attorneys, to be heard during the deliberations, unless the opposing litigants are present therein, nor can it accept any notes or papers from any of the litigants, without allowing the other litigant to review them. Any violation thereof shall lead to the nullification of the proceedings accordingly.
- Article 369: The Court rulings must start with the following:  
1. In the name of Allah; the Beneficent – the Merciful.  
2. In the name of the people  
3. The rulings shall be issued by the majority of the views of the Judges in the Tribunal, while those of the minority dissenting opinion can deposit their dissent with independent justifications that support their dissent in the file of the case. No one may review the draft and the views that the file contains. These have no influence on the ruling and its effectiveness. In all cases, the litigants cannot have copies of the dissenting minority opinions.  
4. No Judge can abstain from voting when issuing the ruling or the decision thereof. Nor can he abstain from signing the ruling whatever his dissenting opinion may have been.
- Article 370: At the end of the pleadings of the litigants, the Court can announce the decision at the hearing; it can postpone its issuance to another hearing, which shall follow soon at a date set by the Court accordingly.  
If the case warrants postponement of the ruling again, the Court shall announce this in the hearing with the setting another date, when the announcement of the ruling shall be made, giving the reasons for the delay in the Minutes [Report] of the Hearing. Postponement of the issuance of the ruling is not allowed after that.  
The pleadings by the litigants may not be permitted after setting the date for declaring the ruling or verdict of the Court unless this is by a

decision announced by the Court in the hearing, for serious reasons, in which case the decision and its justifications shall be recorded in the Minutes [Report] of the hearing accordingly.

Article 371: The Judge shall announce the ruling by a spoken recital thereof, summarizing the reasons for the ruling, at the least. The announcement shall be made publicly, even if charges is reviewed in a closed hearing. Otherwise, the ruling shall be considered null and void. The judges who participated in the deliberations of the ruling. If any of them could not do so, they must sign the draft of the ruling.

The Court can order all the necessary means to prevent the defendant from leaving the deliberation chamber prior to the announcement of the ruling, or in order to ensure his presence in the postponed hearing for the announcement of the ruling, even if this is by issuing a Court order for his arrest, if the crime is of a nature that allows for provisional arrest.

Article 372: The ruling shall include all the reasons on which the ruling is based upon.

Every conviction verdict must include the reasons that prove the occurrence of the punishable crime and the charges against the defendant thereof. The Court shall also include meting out the sentence for the crime and the conviction thereof; the justifications upon which the determination of the sentence are based upon, otherwise the violation thereof shall render the ruling null and void.

Article 373: If the ruling is subject to appeal, the Judge must notify the defendant that he has the right to appeal the ruling and the period in which he can do so accordingly.

Article 374: Rulings are written in the Arabic language. The rulings shall show the following:

1. The Court that issued the ruling, the date and location thereof;
2. The names of the Judges who heard the pleading and Participated in the formulation of the) ruling and attended the announcement thereof;
3. The names, titles, capacities; residence of the litigants, as well as their attendance and absences.
4. The requests that were presented by the litigants, their pleas and defenses; the summary of the realistic evidence and their legal arguments, which they relied upon accordingly.
5. It shall show the stages of charges and the opinion of the General Prosecution.
6. The reasons for the ruling and how it is announced.

Article 375: In all cases, the draft of the ruling shall be deposited, including the reasons thereof; it shall be signed by the Judges who participated in the issuance thereof at the announcement thereof, otherwise it shall be regarded as null and void.

The original version of the ruling shall be written within 15 days from the date of its issuance; the Presiding Judge of the Court and its Clerk shall sign it. If the President of the Court is unable to sign it, one of the Judges who participated in its issuance can sign it on his behalf. If the ruling is issued by an individual judge, who placed the reasons thereof in his own handwriting, the Presiding Judge of the Governorate Court of Appeals can sign it himself on the original version of the ruling, or

he can delegate one of the Judges to sign on it, based on these reasons. If the Judge did not write the reasons his handwriting, the ruling is null and void due to the absence of the reasons behind the ruling.

The Clerical Department shall give the concerned individual certification as to the non-signing of the ruling on the date mentioned.

Article 376: the Court must decide on the requests that are presented to it by the litigants and show their justifications thereof accordingly.

If the crime is proven to have not proven, or that the Law does not punish for it, then the Court shall issue a verdict innocence for the defendant; he shall be released if he is under arrest for this crime only.

If the crime had indeed been proven and is punishable by Law the Court shall rule by conviction and the Court shall set a date for another hearing to set the elements require for meting out the sentence and to hear the comments of the litigants thereof and then it shall issue its ruling accordingly in accordance with the Law. Yet in charges involving compensatory revenge and religious specified penalties, the Court has ruled for conviction thereof, it shall decide in the same ruling the punishments set therefore accordingly.

Article 377: If it is clear to the Court that the defendant, at the time of the crime, is in a condition, in which legal accountability is not warranted or that punishment could not be allowed, the Court can rule with the ending of the case and the release of the defendant immediately, if he is under arrest in accordance with the Law.

Article 378: If the Court found that it has not within its jurisdiction to review the case, it shall rule as such and refer the case to the General Prosecution to take the necessary action accordingly.

Article 379: A copy of the Court ruling shall be kept in the file of the case, which shall include the events leading to charges, the reasons and the announcement of the ruling; copies thereof shall not be given, unless it is for a Party in charges, in which case they shall get a copy free of any charges.

## **Chapter Six The Expenses**

Article 380: The expenses are all the expenditures that the litigants can prove as having paid in charges proceedings an trial, including lawyers' fees. Compensations and fines ruled by the Court on the litigants due to hindering the arrival to a ruling by the Court or due to the non-implementation of its decisions and orders.

Article 381: By its own choice the Court shall decide on the matter of the expenses of charges in the final ruling that the litigation leads to therein.

Article 382: Every defendant who is convicted for a crime, can be compelled to bear all or part in the expenses, according to what the ruling specifies, as such. If many defendants were convicted in one ruling for one crime, they can be compelled to bear all the expenses equitably between them. The Court can divide these among the defendants otherwise, or it can obligate them to bear the expense jointly/severally.

Article 383: If the decision on the Appeal is against the appeal or its illegality, or that it is not acceptable or is in support of the Primary Court ruling, the

Party appealing the ruling could be asked to bear all or part in the expenses related to the appeal.

The Supreme Court can rule that the all or part in the expenses shall borne by the Party appealing, if the appeal is dropped, or found to be illegal or unacceptable or that it rejected the appeal.

Article 384: The personal plaintiff shall speed up the charges set for charges thereof; if the ruling is against the defendant for the crime, the decision shall rule that he shall bear the expenses borne by the personal plaintiff, yet the Court can still reduce the amounts if it found that some of these expenses were not warranted.

If the ruling is for the innocence of the defendant for the crime, then the Court can compel the personal plaintiff to bear all or part in the expenses, or can waive him from bearing these expenses, if it is found that the charges were based on good intentions accordingly.

Article 385: The plaintiff for the civil rights shall quickly pay the charges set for accordingly. If the defendant is sentenced to pay compensation, he shall bear all the expenses that the civil rights plaintiff bore; the Court can reduce the amounts thereof if it found that they were not necessary.

If the defendant is not sentenced to pay Part or all the compensations requested by the civil rights plaintiff, the expenses that shall be borne by the defendant and the civil rights plaintiff proportionate to the compensation ruled for the plaintiff and the compensation is rejected accordingly.

Article 386: If both the personal claims plaintiff and the civil rights plaintiff intervene in charges after it has been presented to Court, each one of them must pay the set fees for this intervention; they shall be both compelled to pay them if the intervention is ruled as unacceptable.

Article 387: The Party that is liable for the civil claims the same way as the defendant, with regards to the expenses for the presentation of the civil suit. If it is ruled that the defendant is responsible for the payment of the payment of Part or all of the penal indictment charges, the Party liable for the civil suit shall be compelled jointly with the defendant to bear the charges thereof accordingly.

Article 388: The expenses of charges shall be estimated in the ruling, if possible, or else the Presiding Judge of the Court that issued the ruling can estimate based on the petition presented by the Party who the ruling is in favor of. This shall be notified to the Party that the ruling is against. Any of the litigants can claim unfairness from this situation. This claim of unfairness can be carried out through a report by the Clerical Department of the Court that issued the judgment thereof, within the ten days following the announcement of the matter and the Clerical Department shall set the date when the claim of unfairness shall be reviewed at the deliberation room; the litigants shall be formed accordingly three days prior to the date set for this.

The Court shall rule on the claim of unfairness by accepting it or rejecting it or by amending the matter. In terms of appeal, the same thing applies here as shall apply to the ruling issued on the original indictment accordingly.



## **Chapter Seven**

### **On the Strength of the Court Rulings**

- Article 389: Penal charges can only be reviewed by the methods set out accordingly by the Law in all stages of the review thereof after the Court has issued its ruling on charges. Also, the ruling may not be amended or cancelled, except by the legally proscribed manner.
- Article 390: The penal indictment shall be terminated by the issuance of the final ruling thereof, as far as the defendant on whom it is presented against. Yet, if a ruling is passed that cancels the final ruling that the termination of the penal indictment is based upon, by the appeal for default or by an appeal for a retrial the penal indictment shall return to its former status prior to its termination.
- Article 391: A penal indictment cannot be reinstated after the issuance of the final ruling thereof, based on the appearance of new evidence or new conditions, or due to the amendment of the legal description of the crime.  
However, if penal results after the issuance of the final ruling followed from the act that causes it to be a more serious crime, or if it became apparent that the crime for which the ruling is issued for is of a more severe type, which is not presented to the Court, the General Prosecutor can, within three months from the date that the General Prosecution learns of this, can request the Supreme Court to order for a retrial either for a more serious or a less serious crime, as the case may be.  
When reissuing a ruling, the Judge can drop from the previously sentenced punishment whatever has transpired from such punishment on the person whom it is sentenced accordingly.
- Article 392: The penal ruling that is issued for the penal segments in charges, whether guilty or innocent, the same strength with regards to what is to be ruled for the civil suits which have yet to be finally ruled upon<sup>11</sup>, except in those situations where that ruling has clearly decided upon as such, such ruling being a matter of necessity. The innocent verdict shall not have the same strength, if it were merely based on the fact that the crime is not punishable by law.
- Article 393: The ruling issued on the civil items is not of any of the strengths ruled thereto in the penal items, with regards to the occurrence of the crime or the determination of its perpetrator.
- Article 394: The ruling issued on the personal suit by the Court, within the limitations of its jurisdictions, shall have the same strength of the rulings passed on the penal items, in those areas that are based on the arrival to a decision concerning the penal indictment.
- Article 395: The plea to close charges due to the issuance of a final ruling thereto and the plea for the strength of the ruling issued on the suit for the personal conditions in the penal items thereto in the general order<sup>12</sup>, whereby it is permissible to hold on to both in any of the conditions that

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<sup>11</sup> I.e., they shall not influence the ruling that shall come out on the civil suits, etc., or so it seems.

<sup>12</sup> There is a period in the original text here, thus making it really a sentence fragment. The translator here tried to find some way to possibly link the fragment with the following phrase, but even that proved difficult in coming out with a clear comprehension of what is implied herein by the original text.

charges takes, even if for the first time to be presented to the Supreme Court by which it decides to rule on by its own choosing accordingly.

## **Chapter Eight**

### **Nullification**

- Article 396: All measures that are in violation of this Law are null, if the Law clearly specifies its nullification as such or if the procedure that is violated or ignored essentially.<sup>13</sup>
- Article 397: If the nullification is due to the lack of consideration to the provisions of the Law related to the method for presentation of the penal indictment to the Court, the formation of the Court, the competence to make a ruling thereon, whether the hearings shall be opened or closed to the public, or the reasoning behind the rulings, the procedures of appealing the rulings and decisions, major procedural faults that cause the loss of any of the rights of any of the litigants, or any other reasons related to the general order, the Parties have a right to uphold it in any condition that charges has come to reach; the court can thus rule as such by its own choice. Also, giving the person who a ruling is against a choice between the punishment of imprisonment or paying a fine is a nullity related to the general order.
- Article 398: Other than the nullities related to the general order, the right of a litigant to plea for the nullity of the procedures for the gathering of conclusive arguments or the investigation, which the General Prosecution or the Court undertakes, if he had an attorney; the procedure occurred in his presence, without any objection thereof by him, the plea shall be dropped by nullity, with regards to the General Prosecution, if it did not uphold it at the time it occurred accordingly.
- Article 399: None of the litigants has a right to uphold any form of nullity, if he is the one that gave cause to such a nullity, or if the procedure is decided for the benefit of others, or if the intended end result has been realized notwithstanding the shortfall in the procedure.
- Article 400: The presence of the litigants or through an attorney on his behalf, based on a summons that is void, which shall be corrected by the person who is thus summoned. He may request time in order to prepare his defense. The person who ordered the summons as such shall also answer to him accordingly.
- Article 401: The General Prosecution and the Court can by their own choice make any corrections to any procedure that is found to be nullified.
- Article 402: The decision to nullify any procedure also includes the nullification of all the direct effects resulting thereof; the nullities must be corrected, whenever possible, from the last procedure that is carried out properly.
- Article 403: The correctness of a ruling is not effected by the occurrence of a procedure that is null prior to its issuance as long as the ruling is not based on that procedure.
- Article 404: If a material error is found in a court ruling; a nullity did not result due to it, the Tribunal that issued the ruling must correct it on its own, or

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<sup>13</sup> Again, here the original text ended without the conclusion of the conditional clause.

based on a request of one of the litigants, after they have been summoned to attend. The ruling to correct after hearing their statements. If the material error is in an order issued by the General Prosecution, the source of the order shall be responsible for correcting the error. The litigants have the right to object to the correction in the appeals court of competent jurisdiction, within 10 days of announcing such correction. The Court can rule to accept, refuse or amend the objection accordingly.

These procedures are followed also in the correction of the defendant's name and title.

## **Chapter Nine The Penal Card**

- Article 405: The fingerprints and photograph of any person during the investigation with him or during his trial, if this shall be in the interest of the investigation or the trial.
- Article 406: If the investigation did not reveal any crime, or a verdict of innocent is issued to anyone who is fingerprinted or photographed, the photographs and fingerprints shall be destroyed.
- Article 407: If anyone whose fingerprints and photograph is taken is convicted of a crime, or who is sentenced to loose custody of himself imprisonment) and the relevant rights associated with it, whether partially or fully, the fingerprints and photograph shall be maintained with the relevant concerned authority in the Governorate Capital; the details of the crime or the relevant ruling thereto shall be recorded, based on the order of the General Prosecution, in a card called the penal card<sup>14</sup>.
- Article 408: The General Prosecution shall send copies of details on all the Court Rulings that are penal convictions for a serious crime to the central authority that maintains these penal cards.
- Article 409: The penal card shall include, under the supervision of the General Prosecution, the following court rulings that concern those with penal cards; any changes that are put on such rulings with regards to their cancellation, the suspension of their implementation or the issuance of clemency thereto.
- Article 410: The court can review the Penal Card of a defendant who is being tried therein after the decision has been issued to convict him, in order to determine the appropriate sentence therefore. No copies of the penal card shall be given except to the ones they are concerned with.

## **Volume Four Ways to Appeal Court Verdicts**

### **Book One General Provisions on the Ways to Appeal**

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<sup>14</sup> I.e. the Penal Record.

## **Chapter One The Right to Appeal**

- Article 411: Every ruling or decision can be appealed unless the Law specifically stipulates that it may not be appealed.  
The right to appeal is decreed for all Parties, unless the Law restricts it to only one Party and no other Party.  
Only those concerned or who have a stake in the appeal may present an appeal
- Article 412: Objections to any rulings or decisions may only be consummated by way of appeal and by way of Reversal, Plea or Review.
- Article 413: The General Prosecution may appeal a ruling or decision in favor of or against the defendant whenever it deems that the law requires accordingly.  
If an appeal is made to a ruling in favor of the subject of the ruling or decision, when the appeal is under review, consideration of the criminal question decided by the appealed ruling shall not be intensified.
- Article 414: The Civil Suitor may appeal the ruling or decision that is related to his civil rights.  
The General Prosecutor is entitled to the same right if the civil case is presented on behalf of the injured Party.
- Article 415: The decisions made during the trial may not be appealed unless it is along with the decisive ruling on the matter, except for the decisions related to the inspection and arrest of the material evidence, or the arrest and contingent imprisonment, the arrest of property or in a ruling out, which is out of the jurisdiction of the Court, or the case may not be reviewed, which has already decisively ruled upon. An objection or appeal may not entail that proceedings shall be halted, unless the Law otherwise stipulates differently.
- Article 416: Appeals may only made for the part in a ruling related to a civil case alone except by the methods decreed in the Law for Penal Proceedings.  
In such a case, then the Court shall only review the matter of the civil suit and this shall not affect the execution of the criminal proceedings that are included in the ruling being accordingly appealed.

## **Chapter Two Appeals**

- Article 417: The General Prosecution, defendant, personal plaintiff, civil rights claimant; the person liable therefore may appeal rulings issued on crimes from the Primary Courts and the appeal of the civil rights claimant and the person liable therefore can only present the civil claim to the appeals court.
- Article 418: The rulings issued in the civil claims related to a criminal case may only be appealed if they are included in what may be appealed in accordance with the Law of Litigation Proceedings.

- Article 419: A ruling on interrelated crimes, even if the appeal may not be undertaken, with respect to only some of these crimes.
- Article 420: Preparatory and preliminary rulings and decisions can only be appealed after the decisive ruling on the case and in following the appeal of such a decision. Nevertheless all the rulings issued of lack of jurisdiction may be appealed as well as the rulings of proper jurisdiction, if the Court does not have proper jurisdiction over the case.
- Article 421: Appeals shall be made by a report submitted at the clerical department of the Court that issued the ruling or at the appeals court of the Governorate with proper jurisdiction thereto; is only accepted if presented within fifteen days from the date of the ruling being appealed accordingly.  
If a fleeing defendant's appeal is permitted, such a period in effect for him starts from the date he surrenders or from the date he is arrested. Nevertheless the appeal, with respect to the General Prosecutor shall be returned forty days from the date of the issuance of the ruling.
- Article 422: The appeals report is signed by the appellant himself or by an attorney thereof and the concerned clerk shall set the date in which the hearing will be held for review of the appeal and the General Prosecution shall advise the rest of the litigants of such a date.
- Article 423: The file of the case shall be sent to the Governorate Court of Appeals under the jurisdiction of which falls the Court that issued the ruling being appealed and this shall be prior to the date for the hearing set to consider the appeal by at least ten days; and the General Prosecutor shall move the defendant, if he is under arrest, at the appropriate time to the prison where the Appeals Court is situated.  
In this case the Appeals Court shall look into the appeal promptly.
- Article 424: If one of the litigants appealed the ruling in due time, the other litigant shall present a counter appeal within ten days after the period for presenting the original appeal has expired.
- Article 425: The appeal presented by a defendant who is sentenced to mandatory detention shall be dropped, if he does not present himself to the executing authority prior to the date set for consideration of the appeal thereof, unless he is released.
- Article 426: The Appealing General Prosecution shall present the full criminal case to the Governorate Appellate Court; it may back, cancel or amend the ruling, either in against the defendant or in his favor. A decreed sentence may not be made harsher and a ruling of innocence may not be rescinded except if by the unanimous opinion of the judges, unless the difference of opinion relates to a legal matter.  
If the appeal is presented by other than the General Prosecution, then the Court shall either back the ruling or amend it in favor of the appellant.
- Article 427: A member of the Appeals Court shall place a report in the case, which shows a summary of the case, the reasons for the appeal, the response to the appeal if any, without giving any opinion thereon. This report is recited in the hearing, then the Court listens to the statements of the appellant and the other litigants and the defendant shall be the last person to speak. The Court then issues its ruling after having read all the relevant documents.

- Article 428: The Governorate Appellate Court shall listen to the witnesses who shall have testified at the Primary Court and shall fulfill any shortcomings in the investigation proceedings.
- Article 429: If the Primary Court rules on a topic and the Government rules that there is a fault in the proceedings or in the ruling, it shall correct the fault and decide on the case accordingly.  
If the Primary Court rules the case as being out of its jurisdiction or accepts subsidiary rejection which entails preventing further proceeding of the case; the Appeals Court rules for annulment of the ruling and the case is within the Primary Court's jurisdiction or the rejection of the subsidiary rejection and consideration of the case, the Appeals Court shall return the case to the Primary Court to rule on the case matter.
- Article 430: The rules and procedures related to hearings and rulings set out in this law are applicable to appeals cases.

## **Chapter Three Appeal for Annulment**

### **Section One Cases of Appealing for Annulment**

- Article 431: The Supreme Court is responsible for observing the courts in terms of their application of the laws. Its control does not extend to the truth of the events, the proofs of which the courts issuing the rulings became convinced, nor to the value of the evidence that were relied upon as proof except in the cases stipulated by the Law accordingly.
- Article 432: Appeal for Annulment may be presented in rulings that decide on lawsuits that are issued by Governorate Appellate Courts. However rulings that are issued prior to conclusive rulings on the matter may not be appealed except with the conclusive rulings on the lawsuit unless the decisions entail to halt further proceeding on the case.
- Article 433: The appeal for annulment is a right of the General Prosecution, personal plaintiff, claimant for civil rights and the liable person thereto.
- Article 434: If a sentence is issued for execution, retribution or a religiously stipulated punishment that entails taking a life or an a bodily organ, then the General Prosecution shall present the case to the Supreme Court attached with a memorandum of its opinion thereof. The Court may review the case.

### **Section Two Reasons for Appealing for Annulment**

- Article 435: Appeals for annulment may only be presented in the following cases:
1. If the ruling being appealed is based on a violation of the Law or an error in the application thereof.
  2. If the ruling is wrong.

3. If the proceedings were wrong to the point of having an effect on the ruling.

The essence is that it is assumed that the procedures were observed while the case is under consideration and the concerned person must prove that procedures were neglected if they were not cited in the ruling or in the Minutes [Report] of the hearings, by every method of proof.

If they were cited in the any of the two, then they may not be proven as not being followed unless it is through appeal by claiming forgery.

Article 436: The appellant must submit to the Clerical Department of the Court, to which he decided to appeal, a memorandum showing the reasons on which the appeal is based upon; copies thereof to the other litigants against whom the appeal is being made, within the period set for presentation of the appeal.

If the General Prosecution is presenting the appeal, the General Prosecutor or the Chairman of the Annulment Prosecution shall sign the reasons for the appeal. If other appellants presented it, then an accredited lawyer at the Supreme Court in accordance with the Law shall sign it.

Only the reasons that were previously shown during the set period for presenting an appeal unless they are related to the general regulations / public order.

Nevertheless, the Court may annul a ruling in favor of the defendant, at its own discretion, if it is proven that the ruling is based on a violation of the Law, on an error in the application thereof, on the court issuing the ruling not being formed in accordance with the Law, or on the lack of jurisdiction of the court in ruling on the case.

### **Section Three Procedures for Appealing for Annulment**

Article 437: An appeal for annulment is presented by submitting a report to the Clerical Department of the Court issuing the ruling being appealed, or at the Supreme Court, within forty days after the date the ruling is pronounced.

Article 438: If the appeal is not presented by the General Prosecution or by the sentenced Party to a punishment that restricts his freedom, the to accept the appeal the appellant must deposit YR 500 Five Hundred) to the cashier of the court that issued the ruling as a bond, unless this deposit is waived in accordance with the Law. The Clerical Department shall only accept the Appeal Report unless evidence that the bond is deposited or is waived. The Government is waived from this deposit.

Article 439: The Head of the Clerical Department of the Court in which the appeal will be reviewed shall register the appeal in the register set up for this on the day it reaches the court; then notify by copy of the reasons for the appeal to all those against whom the appeal is being made, within twenty days from the deposit thereof. The lack of consideration to this period does not cause any invalidity of the appeal; any of these people may respond to these reasons by a memorandum within ten days from the date that the appeal is notified to them.

Article 440: If the appeal is being presented by the Clerical Department of the Court, which issued the ruling being appealed, at the end of the periods cited in the previous article, the Head of the Clerical Department shall forward the appeal file with the case to the Clerical Department of the Supreme Court, in order to record it in their records; the Head of the Clerical Department in the latter Court shall forward the appeals presented to the Court along with the case documents to the Annulment Prosecution after they have been registered.

Appeals shall be registered in the prosecution registers; the prosecution shall write a memorandum of its opinion in all the appeals, in terms of the form and topic in question and place this in the file prior to consideration by the Court.

Article 441: After placing its opinion therein, the General Prosecution for Annulment shall return the appeal to the Head of the Clerical Department at the Supreme Court, who shall indicate as such in the record for this, then the latter shall present the file to the Chairman of the Court, who in turn shall refer the file to the relevant department responsible for considering the appeal.

#### **Section Four**

### **Consideration of and Ruling on Appeals for Annulment**

Article 442: The Head of the relevant concerned department or the Head of the Judicial Tribunal in the Department to whom the appeal is referred to shall assign one of the members to prepare a complete report on the case, which shows all the events, the reasons for the appeal, the response to the appeal, if any and without giving any opinions on the appeal. The court then considers the appeal and decides on it after hearing the Minutes [Report] and discussion of the appeal based on what is found in the case file and after hearing the opinion of the General Prosecution.

The Court may permit the litigants to present complimentary memoranda to support their defenses or to summon them to hear statements from them or present specific clarifications in a hearing to which the Annulment Prosecution is invited to attend.

Article 443: If the appeal or the reasons thereof were presented after the deadline date for submission thereof, the Court shall rule for rejection of the appeal; if the appeal is however accepted on the basis that the ruling being appealed is based on a violation of law, or on a mistake in the application of a law, the Court shall rectify the error and shall rule according to the law.

If the appeal is based on an impropriety found in the ruling being appealed, the Court shall annul such a ruling and refer the case back to the Court that issued the ruling, in the same form or in a new form, as the Supreme Court deems appropriate, to rule on it conclusively.

Article 444: A ruling may not be annulled for simply entailing deficient causation, when the sentence meted out is approved by the Law for the proven



crime in the ruling; it would suffice for the Supreme Court to correct the error in the ruling accordingly

- Article 445: If the ruling issued by the Court to which the case is referred to by the Supreme Court is again appealed, the appeal shall be reviewed and if the appeal is in order, then the case shall be referred to another court.
- Article 446: Only those aspects on which the appeal on a ruling were based on can be annulled, unless Partitioning the ruling as such is impossible; if the appeal is presented by a Party other than the General Prosecution, the ruling can only be annulled, with respect to the Party presenting the appeal, unless the reasons for the annulment are also related to other defendants; in such a case, then a ruling to annul the ruling, with respect to them shall also be issued, even if they did not present an appeal.
- Article 447: An appeal presented by a defendant sentenced with a prison sentence<sup>15</sup> shall fail, if the latter does not submit himself for execution of the sentence prior to the hearing for the appeal), unless he has been released; and the Court may not release such a person by a bond.
- Article 448: If the appeal for annulment is from a Party other than the General Prosecution, the appellant shall not suffer any harm from making such an appeal.
- Article 449: The rules and procedures concerning the rulings shown hereunder are applicable on the annulment issues, without prejudice to stipulations that are related thereto.

## **Section Five**

### **Concerning the Effects of Appeals for Annulment**

- Article 450: An appeal for annulment does not lead to suspension of the ruling being appealed, unless the ruling is a sentence in retribution, which involves the loss of life or bodily organs.  
The Court may order the suspension of a sentence if it finds justification for such suspension.
- Article 451: The Court shall rule for the loss of a bond, if a ruling is issued that the appeal is illegitimate, shall be turned down, unacceptable or is rejected.
- Article 452: If a ruling is annulled based on a legal question, the court with jurisdiction over the topic, to which the case is referred back to shall follow the ruling of the Court of Annulment on this matter accordingly. Similarly, in all cases, the Court of Jurisdiction over the topic may not rule outside the principles decided by the General Assembly of the Supreme Court.
- Article 453: If the appeal is rejected, the appellant may not, in any case, present another appeal on such a ruling to reject the appeal, notwithstanding the reason therefore.

## **Section Six**

### **Concerning Appeals in the Interest of the Law**

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<sup>15</sup> Literally translated as “sentenced to a punishment that takes away the defendant’s freedom.

Article 454: The General Prosecutor may request the Supreme Court, at any time after the deadline date for presenting appeals, to cancel or amend any court ruling or decision, in the interest of the Law, if such a ruling or decision entailed a violation of law or an error in the application of law accordingly.

The appeal presented in the interest of the Law shall not be based on reasons, which the Supreme Court previously rejected in a previous appeal for the same ruling.

Article 455: An appeal presented in the interest of the Law shall be registered in the registers of the General Prosecution and the Supreme Court and the Court shall consider the appeal in its deliberation chamber.

Article 456: A ruling on an appeal in the interest of the Law does not lead to any effects, with respect to anyone sentenced to a punishment.

## **Section Seven**

### **Petition to Review a Court Ruling**

Article 457: Reviews for final guilty verdicts may be requested in the following cases:

1. If a person is sentenced for murder; further sufficient evidence is presented that the assumed murdered person is still alive.

2. If a person is sentenced for a crime; afterwards someone else is sentenced for the very same crime; both sentences could never be made compatible with each other, whereby it concludes for the innocence of one of the defendants accordingly.

3. If a ruling is issued against a person, a ruling is issued that one of the witnesses or experts gave false testimony against such a person, or if a document presented during consideration of the case is found to be false and such testimony, expert's report or document had an impact on such ruling accordingly.

4. If the ruling is based on a ruling issued in another case and such ruling is cancelled.

5. If, after such a ruling, events or evidence that were heretofore unknown at the time of the trial and such events or evidence lead to confirming the innocence of the person against whom such ruling is issued accordingly.

6. The application for soliciting a revision is presented by the General Prosecution, at his own discretion or based on the request of the following:

One. The person with a guilty verdict or his legal representative.

Two. The spouse of the person with a guilty verdict, relatives, heirs, trustees, if such person is dead.

Article 458: Prior to submitting the application to the General Prosecutor the appellant must deposit YR 500 (five hundred) with the Court Cashier, as a bond, for which the provisions regarding appeals for annulment are also applicable accordingly.

Article 459: The application shall be presented to the General Prosecutor with a petition, in which the appellant shows the ruling being appealed for revision or retrial; on what basis the request is being referred to

accordingly; the latter shall present attached thereto all the supporting documents.

The General Prosecutor shall carry out the investigations needed accordingly; if it is evident that the basis on which the appeal is being made is incorrect or unfruitful, the application shall be filed with an irrevocable decision. In other cases, the General Prosecutor shall present the application with the investigations he undertook to the Supreme Court, with a memo showing his opinion and the reasons behind such an opinion, with in the first three months following the presentation of the application.

Article 460: Presenting a solicitation for a review of a case to the General Prosecutor does not entail suspend the execution of a sentence, unless it is for a death sentence, religiously stipulated punishments; retribution in-kind sentences, which leads to loss of life or any body organs.

In all cases, the presentation of the application to the Supreme Court inevitably entails the suspension of the sentence pending the ruling thereof.

Article 461: If the appeal is referred to the Supreme Court, the General Prosecution shall inform the litigants on the date set for) the hearing before such session is held by at least six days.

Article 462: The Supreme Court shall hear the statements of the General Prosecution and the litigants, undertake all the investigations it deems necessary and then decisively rule on the appeal; if the Court rules to cancel the ruling being appealed and decide on the case, or return the case back to the court which issued the ruling or another department, as the Supreme Court deems appropriate.

Article 463: If a retrial is impossible, such as in the case of the death of the person against whom a ruling is issued, or if the latter became afflicted with a mental disorder, or if the criminal case fails because of the statute of limitations, the Supreme Court shall consider the issue of the case and shall only cancel such Parts of the ruling that were apparently in error.

Article 464: In the event of the death of the person against whom the ruling is issued after the Solicitation for a Review is presented thereto, the Court shall designate someone to defend his memory<sup>16</sup>, subject to such person being a relative of the deceased as much as possible, then the case shall be considered in his presence and shall be ruled decisively, if necessary, to erase anything that could tarnish such memory.

Article 465: If the person on whom a ruling is issued against claims for compensation for any damages suffered from the previous ruling, the Court may rule such compensation for him in the verdict of innocence issued in his favor accordingly.

If the person against whom a ruling is issued is deceased, his wife, parents and offspring<sup>17</sup> may claim for compensation, but no other relatives may so claim, unless it can be proven that such a ruling caused substantial damage to them.

The claim for compensation may be presented in all the stages of the retrial.

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<sup>16</sup> I.e., Suggesting to set the record straight.

<sup>17</sup> Literally translated as “roots, branches”.

- Article 466: The Government shall bear the compensation ruled accordingly; the latter can collect it from the personal suitor, lying witness, expert or any other person who is the cause behind the guilty verdict.
- Article 467: If a verdict of innocence upon a review of the case, the sentence shall be posted in the door of the police precinct in the municipality where the original verdict is issued, the place where the crime occurred, in the habitat of the pursuer for review of the case, in the last habitat of the person against the ruling is issued, in the Official Gazette, in two newspapers designated by the stakeholder, based on the request thereof or of the General Prosecution.
- Article 468: If a ruling or verdict is cancelled based on a review or revision of the case, then this leads to the collapse of the ruling for compensations arising thereof and any amount thereof already consummated shall be duly returned.

## **Volume Five Execution of Rulings**

### **Book One General Provisions**

- Article 469: Punishments and arrangements decreed by Law can only be executed by a final court ruling that must be executed, which is issued by the relevant court of jurisdiction accordingly.
- Article 470: Except in cases involving retribution, blood money and compensation for bodily injury, criminal sentences shall be executed immediately after they are issued, through the General Prosecution, unless the next higher court suspends the sentence; this excludes death sentences and religiously stipulated punishments, which can only be executed in accordance with the rules in the relevant chapter concerning such sentences in this Law.  
The General Prosecution must immediately initiate the execution of the sentences issued for retribution in-kind, blood money and compensation, whenever the victim of the crime and his heirs demand such execution after the sentence has been presented to the President of the Republic to issue the order for execution thereof. In all cases the General Prosecution may ask the assistance of the general authorities and the Armed Forces. The rulings issued in civil cases / suits shall be executed in accordance with the stipulations of the Law of Litigation.
- Article 471: Except in cases so stipulated hereunder, a person sentenced [to imprisonment]<sup>18</sup> may not be freed prior to completion of the period sentenced accordingly.  
Whenever the sentence has been completed, the administration of the Prison or Correctional Facility, in which the sentence is being implemented, shall advise the Court and the General Prosecution accordingly.

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<sup>18</sup> Added by the translator.

If a medical committee issues a report proving that the person sentenced is afflicted with a mental disorder, the Court shall decide to place such a person under guard in a Government Therapeutic Facility for Mental Disorders, until the period of the sentence is completed. If the latter is cured, prior to the end of the sentence completion, then he shall be returned to the prison or the correctional facility to complete the sentence period after deducting the period which is spent by the afflicted person under guard in the health facility from the sentence period.

Article 472: A defendant, who is detained, shall be freed, if the verdict is innocent, not responsible or liable, without sentence, for a sentence of non – imprisonment, or a ruling is issued for a sentence, the execution of which is to be suspended or if the defendant has spent time in contingent arrest which is equal to the period of the sentence meted out accordingly.

Article 473: The supplementary sentences shall be executed in accordance with the original sentences.

Article 474: The cancellation or amendment of an appealed ruling returning what is due to the sentenced person in accordance with the general rules.

Article 475: Sentences of imprisonment shall be immediately executed, even if an appeal has been accorded to the case, in the following cases:

1. If the sentence is issued for a crime related to public property, or property of any public authority or in which the government is a shareholder thereof.
2. If the sentence is issued in theft crime that does not fulfill the conditions for carrying out a religiously stipulated punishment.
3. If the person sentenced does not have a recognized place of residence in the country.
4. If the sentence is issued against a fleeing defendant, whenever the latter surrenders himself or is arrested, subject to hearing any appeals he may have against the verdict or sentence against him.
5. If the sentence is issued against a defendant held under contingent arrest on the outcome of the case, unless the verdict stipulates that he is to be freed on a financial bond or personal guarantee.
6. If the Court decides for the enforceability for what ever reason therefore.

Article 476: The execution of the sentences / verdicts issued by the Appellate Courts shall be under the supervision of the General Prosecution which is responsible for presenting the case to such a court as a plaintiff in accordance with the provisions of this Law.

## **Book Two**

### **On The Execution Of The Death Sentence, [Religiously Prescribed] Punishments and Retribution Sentences**

Article 477: Every final verdict for the death sentence, religiously stipulated punishments; retribution in-kind sentences, which entail the loss of life or bodily Part, require that the person so sentenced shall be arrested and

kept until the execution thereof is consummated in accordance with the Law.

Article 478: If the Supreme Court rules on rulings for the death sentence, religiously stipulated punishments; retribution in-kind sentences, it shall send copies of such rulings to the General Prosecutor, in order for the latter to present it to the President of the Republic with a comprehensive report on the case, within ten days after receiving the ruling of the Supreme Court, in order to issue the Decree for the approval of the ruling accordingly.

Article 479: Sentences of death, religiously stipulated punishments or retribution – in-kind shall only be implemented after the approval of the President of the Republic for the sentence accordingly.

Article 480: The President of the Republic shall issue a decree to execute, religiously stipulated punishments or retribution – in-kind sentences. However, for death sentences, he may issue a decree for the execution of such sentence, for an alternative punishment or for exempting the sentenced defendant. When a decree is issued accordingly, the General Prosecutor shall issue an order, which entails that the President of the Republic has issued a decree and that the required legal procedures thereof have been fulfilled accordingly. With respect to religiously stipulated punishments, where the sentence is for whipping, the President may delegate someone else to issue the decree.

Article 481: Religiously stipulated sentences or retribution – in-kind that entail the loss of life or any bodily organ shall only be executed after notifying the victim of the crime, his inheritors or the personal right suitor to attend the execution of the sentence.

Article 482: The relatives of defendants, who are sentenced to retribution in kind, death or severance of bodily organs, as a religiously stipulated punishment, may meet the defendant on the day set for execution of the sentence at a distance away from the site of the execution.

Article 483: Religiously stipulated sentences or retribution – in-kind that entail the loss of life or any bodily organ shall be executed unless a pardon has been issued by a legally authorized person, based on a written request of the General Prosecutor, which shows that the procedures set forth accordingly have been fulfilled.

The execution of the sentence shall be done inside the penal facility; a hospital or any other place designated accordingly, in the presence of a member of the General Prosecution, the Investigations Clerk, a police officer and the relevant medical doctor. The presence of the victim of the crime, or the latter's heirs, the plaintiff for personal rights; the sentenced defendant's lawyer.<sup>19</sup> The sentence and the charge, for which the sentence is meted out on the tried defendant, shall be recited in the place, where the sentence shall be executed to be heard by all those present there; the member of the General Prosecution shall write a report on the proceedings, including the statements that were made; the completion of the execution, with the certificate of the relevant attending doctor accordingly.

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<sup>19</sup> Literally translated as “representative”.

- Article 484: The death sentence, the religiously stipulated punishment or retribution – in-kind punishment, any of which involve the taking of human life or the severing of a bodily organ, shall not be executed on any day of an official holiday and the religious holidays of the sentenced defendant. The sentences meted out to pregnant women or nursing mother shall be suspended until she has given birth or had ceased breast – feeding after two years; someone else has been found to take care of the child; she shall be imprisoned until such time that the sentence can be carried out accordingly.
- Article 485: The execution of the death sentence shall be by means of severing the head of the sentenced defendant by the sword’s edge at the neck, or shooting with bullets until death, without any mangling or torture. In the religiously stipulated punishment, the sentence shall be executed in accordance with the stipulations of the verdict or sentence.
- Article 486: The crucifixion sentence shall be carried out by tying up the sentenced defendant after the execution of the latter, whereby the public is to be viewed by the public for a period set forth in the sentence; which shall not exceed three days accordingly.
- Article 487: The sentence of stoning shall be executed until the death of the sentenced defendant and the witnesses shall be called to be present at the execution to initiate the stoning; such stoning shall be witnessed by some of the faithful believers. Pregnant women or nursing mothers, who are sentenced to stoning, shall be dealt with in the same manner as women, who are sentenced by the death sentence.
- Article 488: The Government shall pay for the cost of the burial of the corpse of those, to whom the death sentence or the sentence of stoning is executed, when the latter does not have any relatives to request that they do this; and if such relatives do request to do this, then they shall be allowed to carry out their request.
- Article 489: The sentence of limb severance, as a religiously stipulated punishment, shall be carried out by a sharp tool on the right hand at the wrist and on the foot at the ankle and severance of limbs in any other manner, than as proscribed herein, may not be meted out.
- Article 490: Sentences of retribution – in-kind, for anything, other than those involving human life, shall only be executed in the cases, where such injury is meted out to one or more Parties; subject to the following conditions:
1. That it can be undertaken without causing any oppression<sup>20</sup>.
  2. That the punishment is similar to the injury caused by the defendant, in terms of manner.
  3. That both the injured organ of the plaintiff and the vindicating organ of the sentenced defendant are equal in health and soundness.
- A report of the relevant medical doctor shall be made on the compliance of these conditions accordingly.
- Article 491: The sentence for retribution – in-kind, not involving the loss of human life, shall be carried out by the severance of the organ described in the verdict, by means of the appropriate sharp tool, at the joint or boundary

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<sup>20</sup> Or injustice; i.e., to exert a punishment beyond the injury actually inflicted by the sentenced defendant accordingly.

where such organ terminates, unless the relevant medical doctor decides the impossibility of such execution, due to the threat that such a sentence poses on the life of the sentenced defendant; all emergency medical service and treatment shall be provided to the sentenced defendant after such execution, to ensure that no further potential complications arise.

Article 492: The sentence of flogging shall be executed, by a single soft strap, without any knots at its end, with the removal of any heavy clothing on the sentenced defendant, who shall be lashed without being held or bound, either standing or sitting, unless execution is only possible accordingly; such execution shall be in the presence of witnesses. Women shall be whipped sitting, with their clothing on and shall not be held or bound, unless they are unable to bear remaining in a sitting position; the lashing shall proceed from the beginning of the foot until reaching the neck, without going to the head. The sentence shall be more severe on those with a verdict of adultery, provided that the flogger shall lift the whipping hand above his head; that a group of the faithful believers shall be there to witness the execution of the sentence. Flogging shall be undertaken under the supervision of the relevant medical doctor, after the latter has decided that the execution of the sentence will not lead to the death of the sentenced defendant, in which case the flogging shall be suspended.

Article 493: If a religiously stipulated punishment or a sentence for retribution – in-kind are justifiably suspended for religiously stipulated legitimate reasons, the case shall be represented to the Court that issued the verdict thereof, to decide on the punitive alternative punishment in accordance with the Penal Law.

### **Chapter Three** **On Execution of Sentences Restricting** **Freedom**

Article 494: The execution of sentences restricting freedom shall be executed [by imprisonment]<sup>21</sup> in a penal institution and under an order thereof issued by the General Prosecution in the form that is decreed by the General Prosecutor.

Such form shall include the following details:

1. The name of the sentenced up to the third generation<sup>22</sup>; the residence address thereof.
2. The case number and the name of the court which issued the sentence.
3. Type of perpetration and article of substance of penalty.
4. The cited sentence of the punishment, the date, duration and termination date of prison term sentenced, subject to showing the

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<sup>21</sup> Added by the translator.

<sup>22</sup> Arabic names are usually the given name followed by the parental lineage up to the level required, with some names having a family name after the lineage desired.



duration of contingent detention, if any and the deduction of the latter from the sentenced term of imprisonment.

5. The signature of the member of the General Prosecution, hearing clerk and the stamp of the official government seal.

- Article 495: The prison term is calculated from the date of commencement of execution; is terminated on the day following the date of termination thereof, or at the time set for freeing prisoners, unless the law decrees otherwise.
- Article 496: The term of punitive imprisonment, in execution of the sentence issued against the defendant, starts from the date that the defendant so sentenced is arrested, subject to deducting the period of contingent arrest.
- Article 497: Any defendant sentenced to imprisonment for three months or less may request the execution of an alternative punishment of work outside the penal facility in accordance with the related provisions decreed in this regard, unless the sentence expressly stipulates depriving the defendant of such an option.
- Article 498: If the defendant sentenced to imprisonment is afflicted with an ailment, which by its nature, or due to the execution of the sentence, exposes the life of such a person to a risk, the General Prosecution may postpone the execution of such a sentence pending full recovery from the ailment.
- Article 499: If a person sentenced to imprisonment is afflicted with insanity or mental disease, the execution of the sentence shall be postponed until recovery thereof; the General Prosecution may order to place such a person in a facility set up for treatment of such conditions, with the duration of stay in such a facility to be deducted from the sentenced term of imprisonment thereof accordingly.
- Article 500: The execution of terms of imprisonment for pregnant women sentenced to imprisonment may be postponed until at least two months after the latter gave birth.  
If the execution of such a sentence is decided upon for such women, then special treatment shall be accorded thereto, as appropriate with their conditions.
- Article 501: If both a man and his spouse were sentenced to a term of imprisonment of a maximum of one year, even if for different respective crimes; neither has ever been imprisoned before, the execution of such sentences may be postponed for a spouse, until the other spouse is released, if they are responsible for providing for minors that have not reached the age of thirteen years maximum; they have a recognized place of residence in the country.
- Article 502: In the cases where the execution of a sentence is postponed, the General Prosecution may request the presentation of a bond that will ensure that the sentenced defendant will not escape from the execution thereof when the reason for postponement thereof has expired.  
The General Prosecution may also request for the postponement of the execution of such sentences any other contingent conditions that will ensure that the sentenced defendant does not escape.
- Article 503: If the General Prosecution refuses postponement, based on the request of the sentenced defendant, or any relatives thereof, for any of the reasons cited above, then the latter may appeal such refusal to the

Appellate Court, which will consider the matter in the deliberation chamber, in the presence of a representative of the General Prosecution, defendant's lawyer and must the Court shall rule decisively on the appeal within a maximum of one week, from the date that such appeal is received by such Court.

Article 504: If the verdict is innocent on a defendant for a crime, for which the latter is held under contingent imprisonment, then the time served accordingly shall be deducted from any term of imprisonment meted out to such a person, for any other crime that the latter may carry out, or for which he is being investigated on during the period of provisional arrest.

Article 505: The General Prosecutor shall issue a decree for the measures for the execution of the compulsory labor that a defendant is sentenced to, the entities for the execution thereof, the wages entitled therefore, the share of such wages which go to such defendant, the manner of payment thereof and of depositing the Government's share thereof to the Government Treasury.

## **Chapter Four Conditional Release**

Article 506: If the conduct of a person, who is sentenced to imprisonment, during the time, which such person has spent in prison, calls for having confidence in the ability thereof to keep himself in good standing, then such person may be released on parole after having spent three fourths of the sentenced term of imprisonment therefore, provided that the duration of detention in the penal facility has been at least three months.

Article 507: If the sentenced inmate faced multiple sentences, then such a release shall be based on the total of all such sentences; if clemency is issued to reduce the term of imprisonment, then the period so waived by the clemency shall not be included in the calculation of the term of imprisonment.

Article 508: Release on parole can only be consummated if the convicted person has fulfilled all the financial obligations for which the latter is sentenced to fulfill, unless there is proof of the inability thereof of to meet such obligations.

Article 509: A release on parole shall be issued to a convicted person by a Committee formed for each Governorate, under the chairmanship of the Head of the General Prosecution and the membership of the Administrator of the Penal Facility and the Manager of Social Affairs – or in the absence of any of the members, anyone else legally competent to act on their behalf accordingly – based on the request for such a release by the convict, or based on the recommendation thereof by the administrator of the respective penal facility.

Article 510: The General Prosecutor shall issue a decree setting forth all or some of the conditions of the parole, which the released convict is compelled to fulfill; the decree granting parole shall also include the parole terms of the Committee, which the parolee must adhere to, until the release becomes final, at the termination of the remainder of the term of imprisonment.

Article 511: If the parolee violates any of the parole terms, the General Prosecution may at its own discretion or based upon the request of the administrative authorities<sup>23</sup>, request from the above cited Committee to cancel a parole decree and the return of the parolee to the penal facility until the termination of the remainder of the sentenced term of imprisonment thereof.

## **Chapter Five**

### **On the Execution of Compensatory Blood Money and Damages for Injury**

Article 512: The religiously stipulated ruling issued by a judge for the non-litigants, which entails setting forth the share of the beneficiaries from the blood money and compensatory damages for injury; the payments due from each of the convicted perpetrators thereof in accordance with the amounts set out in the Law for Litigation.

The Court that issued the sentence of the blood money or compensatory damages may order the arrest of the convicted defendant, based on a request of the relevant concerned persons with a stake therein, after verification of the ability of the former to perform accordingly.

Article 513: The designation of the family members<sup>24</sup>, or any other such liable persons, shall be based on an application by one or more of the beneficiaries of the compensation for such designation presented to the Clerical Department of the Court that issued the ruling, which must be executed accordingly, whereby such designation will show the names, ages and ties of these individuals to the convicted litigant and the extent of their ability to meet such payments accordingly.

Article 514: The Clerical Department of the Court shall publicize a copy of the application referred to in the previous article at the expense of the presenter of such application thereof, or shall compel such applicant or anyone else deemed appropriate by the Court to notify the individuals, whose names are included therein; the Department shall post a copy thereof in the premises of the Court, the Police Precinct; the residence of the informal social sage<sup>25</sup>, for a period of ten days prior to the date of date set for consideration of the case by the Court.

Article 515: Each of those concerned may object to the list of designated members of the family, or such eligible or liable individuals, by a written report to be presented to the Clerical Department of the Court prior to the scheduled hearing; an objection may also be presented orally at the Court session, with the latter to be recorded in the Minutes [Report] of the Court session, in front of the applicants thereof, or else they shall be notified thereof; the objector thereof shall present the documents supporting such objection; announce the those he believes shall be

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<sup>23</sup> Literally translated as “entities”.

<sup>24</sup> Although the text is not clearly worded to this effect, it is assumed here that the implication is the family of the convicted felon.

<sup>25</sup> This is usually a person, who is traditionally elected by members of a neighborhood, community or adherents to a trade to act as an informal leader, arbiter and other social functionary, who is called an *aqil* or a sage.

called to testify and the Court shall verify accordingly and then issue a final ruling, either confirming or amending the list, based on the proofs it obtains accordingly and the execution shall be done based on such ruling in accordance with the Law.

Article 516: If the Court finds that all or some of the blood money or compensatory damages shall be payable from the Government Treasury, then the Court shall issue an immediately enforceable ruling to that effect in accordance with the Law.

## **Book Six**

### **For Execution of Payments Sentenced as Payable to the Government**

Article 517: The General Prosecution shall carry out an adjustment of the amounts of the fines that are due to the Government; the amounts that need to be refunded, compensations and expenses, and shall notify the person sentenced thereto, if such amounts are not set out in the ruling of the Court.

Article 518: The amounts cited above may be collected, in the manner set forth in the Law for Litigation, or in the administrative methods for collection of duly payable public funds.

Article 519: If the sentenced person does not pay the amounts payable to the Government, the General Prosecution shall request the Court for a Court order to take the legal measures that will ensure the refund of obtaining the public funds so sentenced.

Article 520: If the assets of the convicted person do not meet the amounts sentenced on him, then the amounts that are collectible shall be distributed to the its eligible beneficiaries based on the following rank of priority:

- I. Payments due to personal claimant or civil suitor.
- II. Payments due to the Government.

Article 521: If the convict is sentenced to payment of a fine only; the latter is under provisional arrest, upon the execution of such a fine, the amount due shall be deducted by the rate of YR 100 for each day of such arrest; if the sentence is for both a fine and imprisonment; the duration of the provisional arrest is longer than the sentenced term of imprisonment, the amount of the fine shall be reduced by the per diem amount for each extra day accordingly.

Article 522: The relevant concerned General Prosecution may, in exceptional cases, grant the convict a postponement for deferment of the amounts that are payable to the Government or for payment thereof in equal installments, based on a request therefore by the latter accordingly, subject to the presentation of a suitable guarantor.

A rejection of such a request may not be appealed.

If the person sentenced as such delays in the payment of any payable installment, then the remaining installments become payable immediately.

The General Prosecution may retract on any decision issued thereby, if the latter finds that there are reasons for doing so.

## **Book Seven**

### **On Physical Enforcement**

- Article 523: Physical Enforcement may be executed on a convicted perpetrator to collect the amounts sentenced for the Government, with such enforcement being in the form of imprisonment of one day for each YR One Hundred up to a maximum of six months.
- Article 524: Physical enforcement may only be executed on convicted perpetrators who have exceeded eighteen full years of age at the time of perpetrating the crime.  
The provisions of Article 502) – Article 505) are applicable in the event of execution through physical enforcement.
- Article 525: If a convicted perpetrator is subjected to multiple rulings, then the execution of the sentences shall be on the basis of considering the total amounts sentenced for the Government, with the maximum of physical enforcement not to exceed imprisonment for a year.
- Article 526: Executing physical enforcement shall be by means of the issuance of an order thereof by the General Prosecution on the special form prepared for this, which may began at anytime after the convict has been notified accordingly in accordance with Article 521) and after the convict has completed all imprisonment terms that were sentenced to the latter.
- Article 527: The convict may, at any time, request from the General Prosecution to change the physical enforcement to work for any of the Government entities or any public authorities or corporations, without pay for six hours per day.
- Article 527: The General Prosecutor shall issue the instructions that need to be followed in this respect; if the convict is delinquent in performance of the work so assigned or is negligent, without any acceptable excuse, the latter shall be sent to the penal institution to complete whatever remains of the physical enforcement imprisonment term.

## **Book Eight**

### **On the Execution of the Punishment of Confiscation**

- Article 528: Anything that is sentenced for confiscation shall become Government property. When the sentence becomes finalized, the General Prosecution may issue an order to sell such confiscated objects in a public auction or competitive bidding, the proceeds of which shall be deposited to the Government Treasury, or to hand them over to any of the Government entities, authorities or corporations to be used in accordance with the Law. Any valuable objects shall only be sold after an estimate has been made of their prices by an accredited expert, with such price to be the minimum acceptable price that such objects could be sold for under competitive bidding.

**Book Nine**  
**On Complications Arising from Implementation**

- Article 529: Any problems in execution of punishment by the convict or other Parties, those who have a stake thereto may report this to the Court that issued the relevant sentence thereto through the General Prosecution.
- Article 530: The General Prosecutor shall notify those with a stake of the date of the hearing that is set for consideration of the problem in execution; the Court shall rule decisively in the deliberation chamber, after having heard the statement of the General Prosecution and of those with a stake, and shall undertake whatever investigations and whatever measures are required accordingly; in all cases, it may order suspension of the sentence pending the decisive ruling on the conflict. The General Prosecution may, prior to the presentation of the conflict to the Court, suspend the execution of the sentence temporarily. This is without prejudice to the right of the Court to continue the execution of the punishment.
- Article 531: In the event of executing financial sentences on the assets of the convict, where a dispute arises by other Parties with respect to such assets, then the matter shall be reported to the Civil Court in accordance with the stipulations of the Law for Litigation.

**Book Ten**  
**On the Forfeiture of the Right**  
**To Execute a Punishment**

- Article 532: Except in cases involving other than retribution – in-kind sentences, blood money or compensatory damages for injury, the right to execute a sentence is forfeited after the passage of twenty – five years.  
The right to execute sentences of imprisonment shall be forfeited after the passage of a period that is double the term of the term of imprisonment so sentenced, with a maximum of twenty years and a minimum of five years accordingly.  
The right to execute sentences of a financial fine shall be forfeited after the passage of two years, unless the period set in the statute of limitations is interrupted or is suspended in accordance with the following articles:
- Article 533: The period for the forfeiture of the right of execution of a death sentence commences from the date of the issuance of the firm ruling accordingly.  
Otherwise, the period shall start from the date of the issuance of the final decisive ruling.
- Article 534: The period shall be interrupted by the arrest of the convict, or by implementing any measures of execution of a punishment, or by the convict perpetrating a crime that is equivalent to or more serious than the original crime; a crime is deemed to be equivalent if the maximum punishment is the same for both crimes accordingly.

- Article 535: The period shall be suspended from proceeding by any barrier thereto other than the start of the execution of the sentence, whether legally or financially.
- Article 536: The passing of the statute of limitations stipulated in this Law the application of a new period, which starts upon the removal of the cause of the interruption thereto.  
In the event of the suspension of the statute of limitations on the right of the execution of a sentence, however, the period that is started shall continue to proceed upon the removal of the reason that brought about its suspension accordingly.  
In all cases, this is subject, to the statute of limitations for the execution of the sentence shall not exceed twice the duration thereof accordingly.
- Article 537: If the blood heirs absolutely forfeit their right for retribution or on the condition of compensation in blood money, subject to the perpetrator not residing in the district, village or city where the victim, branch heirs or brothers live; that the convict complies therewith accordingly.
- Article 538: If the convicted perpetrator dies after the sentence on him has been issued conclusively, then the sentence is forfeited in all its provisions, except that the blood money, compensatory damages for injury and other compensations due accordingly, as well as the refunds that must be given and expenses, all of which shall be charged to his estate.
- Article 539: Comprehensive or full clemency shall only be by Law, as it deletes all characteristics of the crime committed; the criminal lawsuit thereto shall not be acceptable and proceeding therewith shall not be allowed, if it has already been presented to the Court; even if a conviction has already been issued than it shall be considered as null and void.  
A special clemency for a sentence, however, is by means of a Decree of the President of the Republic, based on a proposal by the Minister of Justice, after a final ruling has already been issued thereto, which may be for full, Partial or replacement thereof by a lesser punishment. The clemency is also applicable to the supplementary sentence.  
Clemency as such is without prejudice to the rights of other Parties, unless they agree otherwise, such rights include retribution – in-kind, blood money or compensatory damages for injury.

## **Book Eleven**

### **On Restoring Honor to the Accused**

- Article 540: The penal effects of all punishment sentences shall remain in effect until the convict's honor has been restored under the Law or by a Court ruling accordingly.
- Article 541: Restoration of honor under the Law occurs when the sentence meted out is a financial fine or imprisonment for up to a maximum of one year, after two years have passed since the sentence is executed or by a clemency or by the statute of limitations, unless the convict carries out another crime during such two years.
- Article 542: With respect to the above, restoration of honor is not granted except under a ruling from the Appeals Court of the Governorate of proper

jurisdiction, where the convict resides and based on a request therefore by the latter, upon meeting the following conditions:

1. The sentence has been executed or waived or the period falling under the statute of limitations has passed thereto.
2. Three years have passed beyond completion thereof, if the term of imprisonment does not exceed three years; six years in all other cases.
3. That all financial obligations to the Government or to individuals have been fulfilled, or the convict has proven that he is in a condition that does not enable the latter to meet such obligations.
4. That the conduct of the applicant thereof, since the issuance of the sentence, calls for confidence that the latter is able to keep himself in good standing.

Article 543: If the convict is placed under observation by the police after the original sentence has passed, which starts from the date in which such observation period has ended.

If the convict is released under parole, wherein such case the period commences from the date set for the completion of the sentence, or from the date in which the parole has turned into a final release.

Article 544: If the applicant is under numerous sentences, then the restoration of honor thereof, by virtue of the Law, or by Court ruling, does not occur unless the conditions stipulated in the previous articles, for each such sentence, subject to calculating the period based on the most recent sentences.

Article 545: The request for a restoration of honor certificate by court ruling shall be presented through a petition thereof to the General Prosecution, which includes the necessary details for identifying the applicant, the date of the verdict issued against the applicant and the places where the latter resided since that time.

Article 546: The General Prosecution shall undertake an investigation, with respect to this application to verify the duration in which the applicant resided in each of the places where the latter stayed since the verdict is issued against him; to check how the latter is acting, conduct and the means of livelihood pursued by the applicant over the period; to investigate all the information it deems necessary. Such investigation shall accompany the application and present it to the Court within three months of the presentation of the application with a report, which includes its opinion and the reasons thereof and shall attach with the application the following:

1. A copy of the verdict and sentence meted out to the applicant.
2. The penal card.
3. A report on the investigation of the applicant's conduct during the stay of the latter in the penal facility and the places wherein the latter resided in since the date of the issuance of the verdict.

Article 547: The Court shall consider the application in the deliberation chamber; it can hear the statements of the General Prosecution and the applicant and complete any other information it deems necessary and issue its ruling on accepting or rejecting the application with the reasons accordingly.



- This ruling can only be appealed by an Appeal for Annulment.
- Article 548: The General Prosecution shall send a copy of the Restoration of honor Ruling to the Court, which issued the sentence of the applicant to mark its margins in acknowledgement; to order that it shall be noted in the Penal Record of the convict accordingly.
- Article 549: If the application for a Restoration of honor Ruling is rejected because of the conduct of the latter, the application can only be represented after one year has passed.  
In other cases, the application can be represented whenever the conditions required have been met accordingly.
- Article 550: A Restoration of honor Ruling may be cancelled, if it is apparent that other sentences were issued against the convict, that were unknown to the Court, or if a ruling is issued that rejected the issuance of a Restoration of honor Ruling for a crime prior to such ruling; the cancellation ruling shall be issued by the Court that issued the Restoration of honor Ruling, based on the request of the General Prosecution
- Article 551: A restoration of honor Ruling from a Court can only be issued once.
- Article 552: A restoration of honor ruling under the Law or by a Court entails the elimination of the conviction ruling for the future and the cancellation of all penal effects, without prejudice to the rights of other Parties involved accordingly.

**Book Twelve**  
**On Procedures to Be Followed**  
**When Loosing Documents and Verdicts**

- Article 553: If the original draft of a ruling issued on the penal articles are lost prior to their implementation, or if all or some of the papers of the investigation were missing prior to the issuance of the decisions concerning them, or if any such documents were destroyed, then the measures stipulated in the following articles shall be followed:
- Article 554: If an official copy of the rulings found, then it shall take the place of the original draft. If such copy is in the possession of a certain person or entity, then either of the latter shall deposit it with Clerical Department of the Court that issued such a ruling, based on an order thereto by the Judge. If the holder refuses to do so voluntarily, then the General Prosecution may take any of the reinforcement and inspection measures stipulated in this Law. Anyone who submits an official copy is entitled to obtain a copy that corresponds to it gratis.
- Article 555: The loss of a copy of the original copy of the ruling shall entail undergoing a retrial, whenever all methods of appeal have become exhausted. The execution of the ruling shall be undertaken under the recorded recitation of the ruling as shown in the Minutes [Report] of the Court Session, or in the drafts of the judges or in the official record or any other official paper.
- Article 556: If the case is under consideration by a court; it is not possible to obtain a copy of the ruling, the Court shall rule for a retrial, whenever all the procedures set forth for appeal have been fulfilled.

- Article 557: If all or some of the papers of the investigation were lost, before the issuance of the ruling, a reinvestigation shall be undertaken for the papers that were lost accordingly.  
If the case is already presented to the Court, then the Court shall undertake the investigation it deems necessary.
- Article 558: If some or all the papers pertaining to an investigation, while the ruling is still available; the case is being considered by the Supreme Court, then the procedures shall not be repeated, unless the Court sees it otherwise as needing to be repeated.

### **General and Transitional Provisions**

- Article 559: All the cases being considered by any other judicial entities, which under this Law have fallen under the jurisdiction of the Courts, shall remain with those entities, until they have been finally decided upon; the rules pertaining to appeals shall apply to the rulings issued by these entities, and shall be dealt with as though they were rulings issued by the Primary Courts.
- Article 560: As an exception to the provisions of this Law, the Supreme Court shall continue reviewing appeals referred to it under this Law in accordance with the previous Law, even if they were included within the jurisdiction of other courts in accordance with this Law.
- Article 561: The other courts shall refer any cases with them, free of charge and automatically, which have become under the jurisdiction of other courts under this Law, in the state they are in. In the event of one of the litigants being absent, the Clerical Department shall inform the litigant of such referral and to summon the former to attend at the normal dates to the Court to which the case is referred to accordingly. The previous clause does not apply to the cases decided upon or the cases for which the recitation of their ruling is delayed, but rather they shall be subject to the old Law.
- Article 562: The police shall refer to the General Prosecution all the Minutes [Report]s and complaints, which were previously presented to them, in their present conditions and the latter will act upon them accordingly.
- Article 563: The General Prosecutor shall issue the periodic administrative publications and parts, as well as the instructions, decrees; forms that will the work processing in the General Prosecution.  
The General Prosecutor shall issue the instructions to the judicial enforcement officers and the policemen working in the penal facilities on how to carry out the authorities and jurisdictions stipulated hereunder and the latter personnel shall comply with such instructions.
- Article 564: Reference shall be made to the Law of Litigation, the Law of Legitimate Proof and the General Laws for Litigation on any matter that is not provided for hereunder.
- Article 565: Any new applications on the Statute of Limitations shall be in accordance with the provisions hereunder, from the enforced date of this Law.
- Article 566: All rules, rulings or regulations that conflict with the criminal procedures stipulated hereunder shall be cancelled. In particular, the

Law of Criminal Procedures No 5 for 1979, issued in Sana'a and the Criminal Procedures Rules issued in Aden.

Article 567: This Law shall be effective from the date of issuance and shall be published in the Official Gazette.

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On 8 Jumada I 1415 AH  
Corresponding to 12 October 1994 AD

Abdul Aziz Abdul Ghani  
Prime Minister

General Ali Abdullah Saleh  
President of the Republic