

# LAW OF CRIMINAL PROCEDURE

[2001]

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***The English version of this document is for guidance only.***

***The Arabic version is the governing text.***

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## PART ONE GENERAL PROVISIONS

Article 1 : Courts shall apply Shari'ah principles, as derived from the Qur'an and Sunnah (the traditions of Prophet Muhammad, peace be upon him) to the cases that are brought before them.

They shall also apply laws promulgated by the state that do not contradict the provisions of the Qur'an and Sunnah, and shall comply with the procedure set forth in this Law.

The provisions of this Law shall apply to criminal cases that have not been decided and to proceedings that have not been completed prior to the implementation thereof.

Article 2 : No person shall be arrested, searched, detained, or imprisoned except in cases provided by law. Detention or imprisonment shall be carried out only in the places designated for such purposes and shall be for the period prescribed by the competent authority. An arrested person shall not be subjected to any bodily or moral harm. Similarly, he shall not be subjected to any torture or degrading treatment.

Article 3 : No penal punishment shall be imposed on any person except in connection with a forbidden and punishable act, whether under Shari'ah principles or under the statutory laws, and after he has been convicted pursuant to a final judgment rendered after a trial conducted in accordance with Shari'ah principles.

Article 4 : Any accused person shall have the right to seek the assistance of a lawyer or a representative to defend him during the investigation and trial stages.

Article 5 : If a case is formally filed with a court, such case shall not be transferred to another court except after the trial court has rendered a judgment thereon, or has decided that it has no jurisdiction, and the transfer of the case to the competent authority.

Article 6 : Courts shall try the accused for the offenses of which they are charged in accordance with the Shari'ah principles and the procedures herein provided for. The court may consider facts not raised by the Prosecutor, if no investigation is necessary.

Article 7 : Trial hearings, including the hearing set for the pronouncement of sentence, shall be attended by the required number of judges, failing which substitute judge(s) shall be assigned to complete the quorum.

Article 8 : Deliberations among members of the court shall be conducted in closed session, and each member shall express his opinion before the decision rendered. Decisions shall be rendered either unanimously or by majority vote. A dissenting judge shall declare his dissent and explain the reasons thereof, and the majority shall explain their opinion in the response to the dissent, which shall be entered into the record. Participation in the deliberations shall be restricted only to those judges who have attended the proceedings.

Article 9 : Sentences shall be appealable by either the convicted person or the Prosecutor.

Article 10 : Criminal panels of the Appellate Court shall consist of five judges to review sentences of death, stoning, amputation or *qisas* (retaliatory punishment) in cases other than death. For other cases, they shall consist of three judges.

Article 11 : Sentences of death, stoning, amputation, or *qisas* in cases other than death that have been affirmed by the Appellate Court shall not be final unless affirmed by the Permanent Panel of the Supreme Judicial Council.

Article 12 : If the Supreme Judicial Council does not affirm the relevant sentence in implementation of Article 11 hereof, the said sentence shall be reversed and the case shall be remanded for reconsideration by other judges.

Article 13 : Investigation and trial of offenses committed by juvenile offenders, including girls, shall be conducted in accordance with the relevant laws and regulations.

Article 14 : The Bureau of Investigation and Prosecution shall conduct its investigation and prosecution in accordance with its Law and the implementing regulations thereof.

Article 15 : All public law enforcement persons shall implement the orders of judicial entities entered pursuant to this Law, and may use any appropriate means thereof.

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## **PART TWO**

### **CRIMINAL ACTION**

#### **Chapter I: Initiation of Criminal Action**

Article 16 : Pursuant to its Law, the Bureau of Investigation and Prosecution shall have jurisdiction to initiate and follow-up criminal action before the competent courts.

Article 17 : The victim or his representative and his heirs may initiate criminal action with respect to all cases involving a private right of action, and shall follow-up any such case before the competent court. The competent court shall serve a summons to notify the Prosecutor.

Article 18 : No criminal action shall be initiated nor investigation proceedings conducted in crimes involving a private right of action, except through a complaint by the victim or his representative or heirs, filed with the competent authority, unless the Bureau of Investigation and Prosecution considers that the filing of such an action and the investigation into those crimes will serve the public interest.

Article 19 : If it appears to the court that there is a conflict between the interest of the victim or his heirs and the interest of the victim's representative, such representative shall be excluded from continuing in the proceedings and another representative shall be appointed.

Article 20 : If it appears to the court in any case pending before it that such a case involves accused persons other than those being prosecuted or facts related to the charge in question, it shall notify the complainant accordingly in order to complete what is required for the proper consideration and adjudication of the case in a manner compatible with Shari'ah principles. This procedure shall apply to the Appellate Court whenever appropriate.

Article 21 : If acts are committed which may contravene court orders or constitute contempt of court or influence any member of such court or any of the parties or witnesses in connection with a case pending before it, the court shall review these acts and render its judgment in accordance with Shari'ah principles.

## **Chapter II: Lapse of Criminal Action**

Article 22 : Public criminal action shall lapse in the following events:

- Issuance of a final judgment
- Grant of pardon by the King on pardonable matters
- Repentance, which satisfies the Shari'ah requirements
- Death of the accused.

However, the lapse of public criminal action shall not impede the continuation of a private right of action.

Article 23 : A private criminal action lapses in the following two cases:

- Issuance of a final judgment
- Grant of pardon by the victim or his heirs.

However, the grant of pardon by the victim or his heirs shall not preclude proceedings of the public criminal action.

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**PART THREE**  
**PROCEDURE RELATING TO EVIDENCE**

**Chapter I: Collection and Seizure of Information**

Article 24 : Search for and arrest of criminal offenders and collection of information and evidence necessary for the investigation and indictment shall be undertaken by criminal investigation officers.

Article 25 : Criminal investigation officers shall, in conducting their duties as provided for in this Law, be subject to the supervision of the Bureau of Investigation and Prosecution. This Bureau may ask the competent authority to consider any violation or omission by any such officer and may request that disciplinary action be taken against him, without prejudice to the right to initiate criminal prosecution.

Article 26 : The proceedings relating to criminal investigation shall be conducted by the following persons, each within his jurisdiction:

- Members of the Bureau of Investigation and Prosecution within their jurisdiction.
- Directors of police and their assistants in the various provinces, counties, and districts.
- Public security officers, secret service officers, passport officers, intelligence officers, civil defense officers, prison directors and officers, border guard officers, special security forces officers, National Guard officers and military officers, each in accordance with their specified duties with respect to crimes committed within their respective jurisdictions.
- Heads of counties and chiefs of districts.
- Captains of Saudi ships and airplanes, with respect to crimes committed on board.
- Heads of centers of the Bureau for the Promotion of Virtue and Prevention of Vice, with respect to matters falling within their jurisdiction.
- Employees and other individuals who have powers of criminal investigation pursuant to special regulations.
- Entities, commissions and other persons who have been assigned to conduct an investigation pursuant to the regulations.

Article 27 : Criminal investigation officers shall, each within his jurisdiction, accept notifications and complaints communicated to them with respect to all crimes, conduct the investigation, collect relevant information in the form of records that shall be signed by them, summarize and date the same in a special register, and promptly notify the Bureau of Investigation and Prosecution. The criminal investigation officers shall move to the crime scene to maintain its integrity and seize all that may be relevant to the crime, reserve evidence, and take whatever action required under the circumstances. He shall enter these matters in the special register.

Article 28 : During the process of collection of evidence, the criminal investigation officer shall hear statements of those who may possess information with respect to facts and perpetrators of crimes, question any suspect, and enter the same in the relevant records. They may seek the assistance of experts, including physicians, and seek their advice in writing.

Article 29 : The complaint filed by the person harmed because of a crime shall be considered as a claim of private right of action, unless he expressly waives such right before the Investigator. The Investigator shall enter any such waiver into the record and shall have it witnessed. In case of defamation and *qisas* , such waiver shall be certified by the competent court.

## **Chapter II: Flagrante Delecto**

Article 30 : A crime shall be deemed to be "flagrante delecto" when it is actually being committed, or shortly thereafter. It shall also be deemed flagrante delecto if the victim is found pursuing another person or that person is being pursued by a shouting crowd subsequent to the commission of the crime, or when the perpetrator is found a short time after commission in possession of tools, weapons, property, equipment, or other things indicative that he is the perpetrator or an accomplice, or if it found in his person at the time some indications or signs pointing to that.

Article 31 : In case of flagrante delecto, the criminal investigation officer shall promptly move to the scene of the crime to view and preserve material evidence, and note the conditions of the places and people and whatever may serve to determine the truth. He shall take the testimony of those present or any person in possession of information relevant to the crime and its perpetrator. He shall promptly notify the Bureau of Investigation and Prosecution of his movement to the scene of the crime.

Article 32 : In case of flagrante delecto, the criminal investigation officer may, upon his arrival at the crime scene, stop whoever is found at the scene from leaving or moving away from that place until the required record is drafted. For that purpose, he may immediately summon any person from whom information relevant to the case can be

obtained. If any person present at the scene fails to obey the order of the criminal investigation officer, or if the person summoned refuses to appear, a note to that effect shall be entered into the record and the violator shall be referred to a competent court to take whatever action deemed necessary.

### **Chapter III: Arrest of the Accused**

Article 33 : Where a crime is in the process of commission, the criminal investigation officer shall arrest the suspect present at the scene of the crime where there is sufficient evidence for his implication. A record of that shall be made and the Bureau of Investigation and Prosecution shall be immediately notified. In all cases, the person under arrest shall not be detained for more than twenty-four hours, except pursuant to a written order from the Investigator. If the accused is not present, the criminal investigation officer shall issue an order for his arrest and a note to that effect shall be entered into the record.

Article 34 : The criminal investigation officer shall immediately hear the statement by the accused. If the accused fails to establish his innocence, the officer shall, within twenty-four hours, refer him, along with the record of the Investigator who shall within twenty-four hours, interrogate the accused under arrest and shall order either that the accused be detained or released.

Article 35: In cases other than flagrante delecto, no person shall be arrested or detained except on the basis of order from the competent authority. Any such person shall be treated decently and shall not be subjected to any bodily or moral harm. He shall also be advised of the reasons of his detention and shall be entitled to communicate with any person of his choice to inform him of his arrest.

Article 36 : No person shall be detained or imprisoned except in the places designated for that purpose by Law. The administration of any prison or detention center shall not receive any person except pursuant to an order specifying the reasons and period for such imprisonment duly signed by the competent authority. The accused shall not remain in custody following the expiry of the period specified in that order.

Article 37 : Members of the Bureau of Investigation and Prosecution shall, at any time and without regard to official hours, visit the prisons and other places of detention falling within their jurisdictional areas to ensure that no person is unlawfully imprisoned or detained. They shall have access to the relevant files of the prisons and detention centers and communicate with prisoners and detainees, and receive whatever they submit in connection therewith. The officers of prisons and detention centers shall provide the members of the Bureau of Investigation and Prosecution with any assistance they may need for the discharge of their duties.

Article 38 : Any prisoner or detainee shall have the right to submit, at any time, a written or verbal complaint to the prison or detention center officer and request that he communicate it to a member of the Bureau of Investigation and Prosecution. The officer shall accept the complaint and promptly communicate it [to the Bureau of Investigation and Prosecution] and provide the prisoner or detainee with an acknowledgement of receipt. The administration of the prison or detention center shall designate a separate office for the member of the Bureau of Investigation and Prosecution as may enable him to follow-up the cases of the prisoners or detainees.

Article 39 : Whoever has any information that a person is unlawfully or improperly imprisoned or detained, or is imprisoned or detained in a place not intended for imprisonment or detention, shall notify the Bureau of Investigation and Prosecution. Upon notification, the competent member of the Bureau of Investigation and Prosecution shall immediately proceed to the place where the prisoner or detainee is kept and shall conduct the necessary investigation. If it is found that such imprisonment or detention is unlawful, he shall order the release of the prisoner or detainee. A note to that effect shall be entered into the record and submitted to the competent authority which shall implement whatever action required by the laws in respect to the persons causing the same.

#### **Chapter IV: Search of Persons and Dwellings**

Article 40 : The privacy of persons, their dwellings, offices, and vehicles shall be protected. The privacy of a person protects his body, clothes, property, and belongings. The privacy of a dwelling covers any fenced area or any other place enclosed within barriers or intended to be used as a dwelling.

Article 41 : A criminal investigation officer may not enter or search any inhabited place except in the cases provided for in the laws, pursuant to a search warrant specifying the reasons for the search, issued by the Bureau of Investigation and Prosecution. However, other dwellings may be searched pursuant to a search warrant, specifying the reasons, issued by the Investigator. If the proprietor or the occupant of a dwelling refuses to allow the criminal investigation officer free access, or resists such entry, he may use all lawful means, as may be required in the circumstances, to enter that dwelling.

A dwelling may be entered in case of a request for help from within, or in case of a demolition, drowning, fire, or the like, or in hot pursuit of a perpetrator.

Article 42 : A criminal investigation officer may search the accused where it is lawful to arrest him, which may include his body, clothes, and belongings. If the accused is a female, the search shall be conducted by a female assigned by the criminal investigation officer.

Article 43 : In the case of flagrante delecto, a criminal investigation officer may search the dwelling of the accused and collect relevant items that may help determine the truth, if there is credible evidence that such items exist there.

Article 44 : If it appears from circumstantial evidence during the search of a dwelling of an accused that he, or any other person who has been present therein, is concealing any relevant evidence, the criminal investigation officer shall be entitled to search that person.

Article 45 : No search shall be conducted except for the purposes of searching for items relevant to the crime being investigated or for which information is being collected. However, if such search incidentally reveals unlawful material the possession of which is unlawful or any evidence associated with any other crime, the criminal investigation officer shall collect such evidence and a note to that effect shall be entered into the record.

Article 46: A dwelling shall be searched in the presence of its owner or his representative or any adult member of his family residing with him. If no such person is present, the search shall be conducted in the presence of the *Umda* (Chief) of the quarter or any comparable officer or two witnesses. The owner of the dwelling or his representative may peruse the search warrant and a note to that effect shall be entered into the record.

Article 47 : The search record shall include the following:

- The name of the officer who has conducted the search, his title, date and time of the search.
- The text of the search warrant or an explanation of the urgency that necessitated the search without a warrant.
- The names and signatures of the persons who were present at the time of the search.
- A detailed description of the seized items.
- Declaration of any action taken during the search and those taken with respect to the seized items.

Article 48 : The criminal investigation officer may not open sealed or closed documents found in the dwelling of the accused. A statement to this effect shall be entered into the record and be submitted to the competent Investigator.

Article 49 : Before leaving the place of search, items and documents found therein shall be kept in a safe and locked place, tied together whenever possible, and sealed. The date of seizure and a reference to the matter for which the seizure was made shall be recorded on a strip inside the seal.

Article 50 : The seals referred to under Article 49 shall not be removed except in the presence of the accused or his representative or the person with whom those items were



found, unless they fail to appear before the competent authority within the designated time, after having been duly summoned.

Article 51 : The search shall be conducted during daytime, after sunrise and before sunset in accordance with the powers conferred by law. No access to dwellings during the night shall be allowed except during the commission of a crime..

Article 52 : If there is no person other than an accused woman in the dwelling to be searched, the officers carrying out the search shall be accompanied by a woman.

Article 53 : Subject to the provisions of Articles 42 and 44, if there are some women in the dwelling, and if the entry of that dwelling is not for the purpose of arresting or searching these women, the officers in charge of such search shall be accompanied by a woman. The women inside the dwelling shall be given time to put on their veils or leave the dwelling and shall be afforded all reasonable assistance that does not negatively affect the search and its results.

Article 54 : No person other than the accused and no dwelling other than his shall be searched, except where there are strong indications that such search would help in the investigation.

## **Chapter V: Seizure of Mail and Surveillance of Conversations**

Article 55 : Mail, cables, telephone conversations and other means of communication shall be inviolable and, as such, shall not be perused or surveilled except pursuant to an order stating the reasons thereof and for a limited period as herein provided for.

Article 56 : The Director of the Bureau of Investigation and Prosecution may issue an order authorizing seizure of mail, publications, and parcels and surveillance and recording of telephone conversations, if such procedure is deemed useful in determining the truth related to a crime that has actually been committed. Such order shall state the reasons thereof and shall be for a period not exceeding ten days renewable according to the requirements of the investigation.

Article 57 : The Investigator alone may peruse the mail, documents, and any other seized items and may listen to any recorded material. He may issue orders that any such material, or copies thereof, be kept in the file of the case or returned to its former owner or to the addressee.

Article 58 : The content of mail and cables seized shall be communicated to the accused or to the addressee, or they be given copies thereof as soon as possible, unless it is deemed to have a negative effect on the investigation process.

Article 59 : The person who has a right to the seized items may claim possession of such items from the Investigator. In case of refusal, he may petition the head of the department with which the Investigator is connected.

Article 60 : The Investigator and whoever obtains information about the articles and documents seized shall keep the same undisclosed, and shall not make use thereof in any way or otherwise disclose the same to a third party, except in circumstances required by the law. In case he unlawfully discloses or makes use of the same by whatever means, he shall be held accountable.

Article 61 : Subject to the provisions of Article 58, if the person in whose possession these documents were seized has an urgent interest therein, he shall be provided with a copy certified by the Investigator.

## **PART FOUR**

### **INVESTIGATION PROCEDURE**

#### **Chapter I: Actions of the Investigator**

Article 62 : If the Investigator concludes that there is no ground to proceed with the case, he shall recommend that the file of the case be suspended. An order to this effect may be issued by the head of the relevant department.

Article 63 : If an order suspending the file of the case is issued, the Investigator shall communicate such order to the victim and to any claimant in respect of the private right of action. In case of death of any of them, the order shall be communicated collectively to the heirs at the place of his residence.

Article 64 : During the investigation, the accused shall have the right to seek the assistance of a representative or an attorney. The Investigator shall conduct an investigation in the commission of any major crimes as herein provided for. He may also investigate other crimes if the circumstances of or gravity of the case so require or may file a lawsuit to have the accused appear directly before the competent court.

Article 65 : The Investigator may designate in writing any of the criminal investigation officers to carry out one or more of the investigation proceedings other than the interrogation of the accused. The officer so designated shall enjoy the same powers of the Investigator in such proceedings. If the circumstances of the case warrant that the Investigator act beyond his powers, he may refer the case to an Investigator of the competent department or one of its criminal investigation officers, according to circumstances. This proceeding shall be carried out by the Investigator himself should such procedure be deemed necessary for the investigation.

Article 66 : Whenever someone is designated to carry out certain investigations, the Investigator shall specify in writing the matters to be investigated and the procedure to be followed. The designee may carry out any other act relating to the investigation, and

interrogate the accused in cases of urgency whenever such proceeding is deemed relevant to his designated task and necessary for determining the truth.

Article 67 : The procedure relating to investigation and the results thereof are deemed confidential which the Investigators and their assistants - clerks, experts, and any other person connected with or participating in the investigation by reason of their occupation or profession - shall not disclose such procedure. The violator shall be held accountable.

Article 68 : Whoever suffers harm in consequence of a crime may file a claim in respect of his private right of action during the investigation of that action. The Investigator shall decide on the admissibility of such claim within three days from the date of filing. If the claim is rejected, an appeal may be lodged with the head of the relevant department within one week from the date of communication of the decision to the interested party. The decision issued by the head of the relevant department shall be final during the investigation stage.

Article 69 : The accused, the victim, the claimant in respect of the private right of action, and their respective representatives or attorneys may attend all the investigation proceedings. The Investigator may, however, conduct the investigation in the absence of all or some of the abovementioned, whenever that is deemed necessary for determining the truth. Immediately after the necessity has ended, he shall allow them to review the investigation.

Article 70 : The Investigator shall not, during the investigation, separate the accused from his accompanying representative or attorney. The representative or attorney shall not intervene in the investigation except with the permission of the Investigator. In all cases, the representative or attorney may deliver to the Investigator a written memorandum of his comments and the Investigator shall attach that memorandum to the file of the case.

Article 71 : The litigants shall be notified of the time and place of the investigation proceedings.

Article 72 : The victim and the claimant of the private right of action shall specify places in the town of the court within whose venue the investigation is conducted if they are not residents thereof. If they fail to do so, whatever necessary notice to them shall be deemed proper by notification to the court administration.

Article 73 : The litigants may submit their request to the Investigator during the proceedings. The Investigator shall decide such claims and specify the reasons for his decision.

Article 74 : If the Investigator's orders and decisions during the investigation proceedings are not issued in the presence of the litigants, he shall advise them of such orders and decisions within three days from their issue date.

Article 75 : In the exercise of their duties, the Investigators may seek the direct assistance of the security forces whenever necessary.

## **Chapter II: Assignment of Experts**

Article 76 : The Investigator may seek the assistance of a specialized expert with respect to any matter relating to the investigation.

Article 77 : The expert shall submit his report in writing within the time prescribed by the Investigator. If the expert fails to submit his report by the deadline, or if he finds justification therefor, the Investigator may replace him with another expert. Each of the litigants may submit a report prepared by another expert retained by him in an advisory capacity.

Article 78 : The litigants may, on sufficient cause, object to the appointment of the expert. Such objection shall specify the reasons thereof and be submitted to the Investigator for decision. The Investigator shall issue his decision within three days from the date of submission of that objection. When an objection has been filed, the expert shall not continue in his assignment except in case of urgency in which case the Investigator shall order the expert to continue.

## **Chapter III: Movement to the Scene, Inspection, Search, and Seizure of Items Connected with the Crime**

Article 79 : When necessary, upon having been notified of a crime committed within his jurisdiction, the Investigator shall promptly move to the scene where that crime has been committed to carry out the necessary inspection before the effects of the crime have been removed, effaced, or altered.

Article 80 : Search of dwellings is an investigative act and shall not be conducted except pursuant to a statement of a person residing in the relevant dwelling, that he either committed a crime or participated therein or there was circumstantial evidence indicating that he was in possession of items relevant to that crime. The Investigator may search any place and seize any item which is likely to have been used in the commission of that crime or resulting therefrom and any other thing that may be useful in determining the truth including any document or weapon. In all cases, the Investigator shall prepare a record of that search, specifying the reasons therefor and the results thereof. However, dwellings shall not be entered or searched except as provided by law and pursuant to a search warrant issued by the Bureau of Investigation and Prosecution.

Article 81 : The Investigator may search the accused; he may also search any other person if it appears on strong grounds that he is concealing certain things that may be

useful in determining the truth. Such search is subject to the provisions of Article 42 herein.

Article 82 : Seizure of mail, publications, parcels, cables, telephone conversations, and other means of communication is subject to the provisions of Articles 55-61 herein.

Article 83 : Seized items shall be handled in accordance with the provisions of Article 49 herein.

Article 84 : The Investigator may not seize any piece of paper or document that has been delivered by the accused to his representative or attorney in connection with the performance of the service entrusted to him, nor the correspondence exchanged between them in the case.

Article 85 : If the Investigator obtains evidence that a certain person is in possession of items relevant to a crime that he is investigating, the Investigator shall ask the head of the relevant department to issue an order for the delivery of such items to the Investigator to enable him to inspect these items as circumstances may warrant.

#### **Chapter IV: Disposal of the Seized Items**

Article 86 : An order may be issued that any item seized during the investigation be returned even before judgment is rendered, except when these items are necessary for the proceedings or subject to confiscation.

Article 87 : The seized items shall be returned to the person in whose possession they have been found. If these items were subject to the crime or the crime resulting therefrom, they shall be returned to the person who lost possession thereof by reason of that crime, unless the person in whose possession they have been found is entitled to retain them.

Article 88 : An order for the return of the seized items shall be issued by the Investigator or the judge of the competent court within whose jurisdiction the investigation has been conducted; the competent court may order the return of these seized items during the trial.

Article 89 : An order authorizing the return of the seized items shall not preclude interested parties from claiming their rights before the competent court, except the accused or the claimant in respect of the private right of action where such an order had been issued by the court pursuant to a claim by either of them against the other.

Article 90 : The Investigator shall not order the return of the seized items should there be any dispute or doubt as to who should receive them. In such a case, the matter shall be referred to the competent court pursuant to a request by the interested party which shall order as it sees fit.

Article 91 : When an order for suspending the case has been issued, such order shall specify the manner in which the seized items may be disposed of. This also shall apply when the relevant judgment in the case has been rendered if the claim for their return is made before the court.

Article 92 : Seized items that have not been claimed by its owners – after having been duly notified of their right to recover them, – shall be deposited with Bait al-Mal (Public Treasury).

Article 93 : The court within whose jurisdiction an investigation has been conducted may, on sufficient cause, refer the litigants to a competent court. In that case, the seized items may be kept under guard, or any other security action may be taken with respect thereto.

Article 94 : If a seized item is perishable with passage of time, or if the cost of its safekeeping is so excessive that it could equal its value, the court may order that it be delivered to its owner or be deposited with Bait al-Mal for the purpose of selling it by auction whenever the investigation requirements allow. In that case, the claimant of ownership may claim the value for which it has been sold.

## **Chapter V: Hearing of Witnesses**

Article 95 : The Investigator shall hear the statements of the witnesses called by the litigants unless he considers that their testimony would be useless. He may also hear statements from others whom he deems necessary with respect to the facts that may lead to the proof of the crime, its circumstances, and its attribution to the accused or his innocence.

Article 96 : The Investigator shall enter into the record full information about each witness, including the name of the witness, his surname, age, profession, nationality, place of residence and his relationship to the accused, the victim and the claimant of the private right of action.

These particulars, the testimony of witnesses and the procedure for hearing the testimony shall be entered into the record without any amendment, cancellation, erasure, insertion, or addition. These particulars shall be valid only after they have been approved by the Investigator, the clerk, and the witness.

Article 97 : The testimony shall be signed by the Investigator and the clerk, and it shall also be signed by the witness after it has been read to him. If the witness declines to sign or affix his thumb print on such testimony, or if he is unable to do so, a note to this effect shall be entered into the record together with any explanation on the part of that witness.

Article 98 : The Investigator shall hear each witness separately, and he may hear the witnesses in the presence of other witnesses and the litigants.

Article 99 : Following the hearing of the witness, the litigants may comment on his testimony and may ask the Investigator to hear the witness on any other point they raise. The Investigator may refuse to direct irrelevant or defamatory questions.

## **Chapter VI: Interrogation and Confrontation**

Article 101 : When the accused appears for the first time for an investigation, the Investigator shall take down all his personal information and shall inform him of the offense of which he is charged. The Investigator shall record any statements the accused expresses about the accusation. The accused may be confronted with any other accused person or witness. After statements of the accused have been read to him, he shall sign them. If he declines to sign, a note to that effect shall be entered into the record.

Article 102 : The interrogation shall be conducted in a manner that does not affect the will of the accused in making his statements. The accused shall not be asked to take an oath nor shall he be subjected to any coercive measures. He shall not be interrogated outside the location of the investigation bureau except in an emergency to be determined by the Investigator.

## **Chapter VII: Summons and Arrest and Appearance Warrants**

Article 103 : In all cases, the Investigator may, as the case may be, summon any person to be investigated, or issue a warrant for his arrest whenever investigation circumstances warrant it.

Article 104 : Each summons shall specify the full name of the person summoned, his nationality, occupation, place of residence, date of the summons, the time and date for his appearance, name and signature of the Investigator and the official seal. In addition, the arrest warrant shall instruct the public authority officers to arrest and bring the accused promptly before the Investigator in the event he refuses to appear voluntarily. Furthermore, the detention warrant shall instruct the detention center officer to admit the accused into detention center after explaining the offense with which he is charged and the basis thereof.

Article 105 : The summons shall be communicated to the person wanted for interrogation through one of the process servers or public authority officers who shall deliver a copy of the summons to that person, if available, or to an adult member of his family, residing with him.

Article 106 : The warrant issued by the Investigator shall be valid throughout the Kingdom.

Article 107 : If the accused fails to appear without an acceptable cause after having been duly summoned, or if it is feared that he may flee, or if he is caught "flagrante delecto", the Investigator may issue a warrant for his arrest and appearance even if the incident is of such kind for which the accused should not be detained.

Article 108 : If the accused has no known place of residence, he shall specify a place acceptable to the Investigator, failing which the Investigator may issue a warrant for his detention.

Article 109 : The Investigator shall promptly interrogate the accused who has been arrested. If this is not possible, he shall be kept in a detention center pending his interrogation. The period of detention shall not exceed twenty-four hours. On expiry of that period, the detention center officer shall notify the chairman of the relevant department which shall interrogate him promptly, or issue an order for his release.

Article 110 : If the accused is arrested outside the venue of the department conducting the investigation, he shall be brought to the investigation department in the area where he was arrested. This department shall verify all the relevant personal particulars and inform the accused of the incident attributed to him. His statements in respect thereof shall be recorded. If it is found necessary that he be transferred, he shall be notified of the place of his transfer.

Article 111 : If the accused objects to his transfer, or if his health condition does not permit such transfer, the Investigator shall be informed and shall promptly issue the necessary order.

## **Chapter VIII: The Detention Warrant**

Article 112 : The Minister of Interior shall, upon a recommendation by the Director of the Bureau of Investigation and Prosecution, specify what may be treated as a major crime requiring detention.

Article 113 : If it appears, following the interrogation of the accused, or in the event of his flight, that there is sufficient evidence of a major crime against him, or if the interest of the investigation requires his detention to prevent his fleeing or affecting the proceedings of the investigation, the Investigator shall issue a warrant for his detention for a period not exceeding five days from the date of his arrest.

Article 114 : The detention shall end with the passage of five days, unless the Investigator sees fit to extend the detention period. In that case, he shall, prior to expiry of that period, refer the file to the Chairman of the branch of Bureau of Investigation and



Prosecution in the relevant province so that he may issue an order for extending the period of the detention for a period or successive periods provided that they do not exceed in their aggregate forty days from the date of arrest, or otherwise release the accused.

In cases that require detention for a longer period, the matter shall be referred to the Director of the Bureau of Investigation and Prosecution to issue an order that the arrest be extended for a period or successive periods none of which shall exceed thirty days and their aggregate shall not exceed six months from the date of arrest of the accused. Thereafter, the accused shall be directly transferred to the competent court, or be released.

Article 115 : Upon the detention of the accused, the original text of the detention warrant shall be delivered to the detention center officer who shall sign a copy of that warrant as an acknowledgement of receipt.

Article 116 : Whoever is arrested or detained shall be promptly notified of the reasons for his arrest or detention, and shall be entitled to communicate with any person of his choice, to inform him (of his arrest or detention), provided that such communication is under the supervision of the criminal investigation officer.

Article 117 : Warrants for arrest, summons, or detention shall not be executed after expiry of three months from the date of issue, unless they are renewed.

Article 118 : The warden of the prison or the detention center officer shall not allow any public authority officer to communicate with the detainee, except pursuant to a written permission from the Investigator. A note showing the name of the person who has been permitted (to communicate with the detainee), the time for the meeting and the date and content of such permission shall be entered into the prison register.

Article 119 : In all cases, the Investigator shall order that the accused may not communicate with any other prisoner or detainee, and that he not be visited by anyone for a period not exceeding sixty days if the interest of the investigation so requires, without prejudice to the right of the accused to communicate with his representative or attorney.

## **Chapter IX: Temporary Release**

Article 120 : An Investigator in charge of the case may, at any time, whether of his own accord or pursuant to a request by the accused, issue an order for the release of such accused, if he considers that there is no sufficient justification for his detention, that his release would not impair the investigation, and that there is no fear of his flight or disappearance, provided that the accused undertakes to appear when summoned.

Article 121 : In cases other than those where the release is mandatory, the accused shall not be released until he has designated a residence acceptable to the Investigator.

Article 122 : An order for the release shall not stop the Investigator from issuing a new warrant for the arrest or detention of the accused if evidence against him becomes stronger, or where the accused violates his undertakings, or where the circumstances of the case require such action.

Article 123 : If the accused is referred to a court, his release if detained or detention if not under arrest shall be within the jurisdiction of the court to which he has been referred. If lack of jurisdiction is determined, the court rendering the judgment of lack of jurisdiction shall have jurisdiction to consider the release or detention request, pending the filing of the case with the competent court.

## **Chapter X: Completion of Investigation and Course of Action**

Article 124 : If the Investigator is of the opinion, following completion of the investigation, that there is insufficient evidence to proceed with the case, he shall recommend to the Chairman of the relevant department to stay the case and the accused detainee be released– unless he is detained for another reason. An order by the Chairman of the relevant department in support thereof shall be effective – except in major crimes where the order shall not be effective unless confirmed by the Director of the Bureau of Investigation and Prosecution or his deputy. The said order shall explain the reasons therefor and be communicated to the claimant in respect of the private right of action, and to his heirs collectively at his place of residence, in case of his death.

Article 125 : The decision staying the case shall not preclude the reopening of its file and the reinvestigation whenever there is new evidence strengthening the charge against the dependent. Such new evidence includes testimony of witnesses as well as records and other documentation that had not been previously presented to the Investigator.

Article 126 : If the Investigator is of the opinion, following completion of the investigation, that there is sufficient evidence against the accused, the case shall be referred to the competent court, and summons shall be served on the accused to appear before it.

Article 127 : If the investigation covers a number of related crimes within the jurisdiction of courts of similar jurisdiction, all these crimes shall be referred pursuant to a single referral order to the court with proper venue for one of these crimes. If the crimes are within the jurisdictions of courts of different jurisdictions, they shall be referred to the court of wider jurisdiction.

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## PART FIVE COURTS

### Chapter I: Criminal Jurisdiction

Article 128 : The Summary Court shall have jurisdiction over *ta'zir* (discretionary punishment) cases (except those excluded by a statutory law) and over *hadd* (Qur'anic prescribed punishment) cases (excluding capital punishment and amputation) and monetary damages (for crimes) that do not exceed one-third of the *diyah* (blood money).

Article 129 : The General Court shall have jurisdiction over cases that fall outside the jurisdiction of the Summary Court provided for under Article 128 hereof, or any other case that by law falls within the subject matter jurisdiction of this court. In particular, this court, convening as three judges, shall have jurisdiction over cases wherein the sentence claimed is the death penalty, *rajm* (stoning), amputation or *qisas* (retaliatory punishment) in cases other than death. This court shall not be entitled to issue a death sentence by way of *ta'zir* , except pursuant to a unanimous vote. Should such unanimity be impossible, the Minister of Justice shall assign two other judges in addition to the three judges who shall together be entitled, either unanimously or by majority vote, to issue a death sentence by way of *ta'zir* .

Article 130 : The General Court, in a locality where there is no Summary Court , shall have the same jurisdiction as the Summary Court .

Article 131 : Venue shall be determined by the place of commission of the crime, or the place where the accused resides. If the accused has no known place of residence, the venue shall be determined by the place where he is arrested.

Article 132 : It shall be deemed as a place of a crime, any place where any of the acts constituting that crime have been committed, or any act required to be done, the omission of which caused physical harm.

Article 133 : The court that considers a criminal case shall be competent to adjudicate all matters that are deemed essential for deciding the criminal case that was filed before it, unless the law stipulates otherwise.

Article 134 : If a judgment in a criminal case is contingent on the outcome of a judgment in another criminal case, the proceedings shall be stayed pending a decision on the other case.

### Chapter II: Conflict of Jurisdiction

Article 135 : If an action is initiated in respect of a single crime or several related crimes before two courts, and both courts have or have not assumed jurisdiction and that jurisdiction is exclusive to these courts, the petition for specifying the court to adjudicate shall be made to the Appellate Court.

## **PART SIX TRIAL PROCEEDINGS**

### **Chapter I: Summons to Litigants**

Article 136 : If an action is initiated before a court, the accused shall be summoned to appear before that court. No such summons shall be necessary where the accused appears for the hearing and a charge has been issued against him.

Article 137 : Prior to holding a hearing, litigants shall be summoned with sufficient time provided for them to appear before the competent court. An accused person who is arrested in "flagrante delecto" shall be promptly, without prior notice, brought before the court. If he asks that court to grant him a grace period in order to prepare his defense, the court must grant him sufficient time.

Article 138 : The summons shall be served on the accused personally, or at his place of residence, pursuant to the rules of the Shari'ah Procedure Law. If it is not possible to locate the place of residence of the accused, the summons shall be delivered in his last place of residence in the Kingdom to the appropriate authority in the governorship, county, or district. The place where the crime has occurred shall be deemed to be the last place of residence of the accused, unless otherwise established.

Article 139 : Detainees or prisoners shall be summoned through the detention officer or prison warden, or their deputies.

### **Chapter II: Appearance of Litigants**

Article 140 : In major crimes, the accused shall personally appear before the court, without prejudice to his right to seek legal assistance. As to other crimes, he may be represented by a representative or an attorney for his defense. In all cases, the court may issue an order for the personal appearance of the accused.

Article 141 : If the accused who has been duly summoned fails to appear on the day specified in the summon document and has not sent a representative where such representation is permissible, the judge shall proceed to hear the plaintiff's pleadings

and evidence and enter them in the case record. The Judge shall not render a judgment except in the presence of the accused. If the accused fails to appear without an acceptable excuse, the judge may issue a warrant for his detention.

Article 142 : If an action is initiated against several persons with respect to one incident, and some of them fail to appear in spite of being summoned, the judge shall proceed to hear the plaintiff's pleadings and evidence against all of them, and shall enter the same in the case record. He shall not render a judgment against the absentees until they appear before the court.

### **Chapter III: Order During Hearings**

Article 143 : Order and control over court hearings are vested with their Chairman, who shall be entitled to remove anyone who disturbs the hearings from the courtroom. If this person fails to abide by the court's order, the court may instantly sentence him to imprisonment for a period not exceeding twenty-four hours, and this decision shall be final. The court may, at any time before the end of the hearing, retract that decision.

Article 144 : The court may try any person who commits an act of assault on that court panel - while in session - or on any of its members or staff and it may issue a sentence against him according to Shari'ah principles, after he has been given the chance to defend himself.

Article 145 : If a crime other than those provided for under Articles 143 and 144 herein is committed during a court hearing, the court may, if it decides not to refer the case to the Bureau of Investigation and Prosecution, render judgment according to Shari'ah principles against the accused, after hearing his statement, except where the case falls within the jurisdiction of another court, in which case it shall be referred to that court.

Article 146 : Crimes committed during a court hearing that are not instantly determined by that court shall be decided in accordance with the general legal principles.

### **Chapter IV: Refusal and Dismissal of Judges**

Article 147 : Subject to the provisions of Section 3 herein relating to order and control over hearings, the refusal and dismissal of judges shall be subject to the provisions of Shari'ah Procedure Law. A judge shall be precluded to try the case if the crime has been committed against him at times other than court hearings.

### **Chapter V: Private Right of Action**

Article 148 : A person harmed by a crime and his heirs shall, at any time during the proceedings of the case in issue, be entitled to submit a request to the trial court regarding his private right of action regardless of the amount thereof, even though his action has been rejected during the investigation.

Article 149 : If the person harmed by a crime lacks capacity and has no guardian or trustee, the court in which the criminal action has been filed shall appoint a person to pursue his private right of action.

Article 150 : Private right of action shall be initiated against the accused if he is of capacity, or against his guardian or trustee if the accused lacks capacity. If such accused has no guardian or trustee, the court shall appoint a guardian on his behalf.

Article 151 : A claimant of the private right of action shall designate a place within the town where the court is located, and this shall be entered with the administration of the court. If he fails to do so, he shall be notified through the court administration.

Article 152 : The abandonment of the private right of action shall not affect the public criminal right of action.

Article 153 : If a claimant of the private right of action abandons his action in the proceedings initiated before a court handling the criminal case, he may continue the action before that court and shall not be entitled to initiate the action before another court.

Article 154 : If the person harmed by the crime files an action for damages with a competent court, and then a criminal action is filed, he may abandon his action before that court and file it with the court hearing the criminal action.

## **Chapter VI: Order and Procedures of Hearings**

Article 155 : Court hearings shall be public. The court may exceptionally consider the action or any part thereof in closed hearings, or may prohibit certain classes of people from attending those hearings for security reasons, or maintenance of public morality, if it is deemed necessary for determining the truth.

Article 156 : Court hearings shall be attended by a clerk who records the minutes under the supervision of the Chairman of the hearing. This record shall indicate the name of the judge(s) of whom the court is composed, the name of the Prosecutor, place and time of the hearing, names of the litigants present and their advocates, their statements and claims, a summary of their pleadings, the evidence – including testimony of witnesses, any action taken during the hearing, and wordings and bases of the judgment. Each page of this record shall be signed by the Chairman, by the members of the court, and by the clerk of the court.

Article 157 : In major crimes, the Prosecutor shall appear during the court hearings in connection with the public right of action, and the court shall hear his statements and decide the same. In other cases, he shall attend court hearings if summoned by the Judge or the Prosecutor finds reason to appear.

Article 158 : No physical restraints shall be placed on the accused during court hearings. He shall be sufficiently guarded and shall not be dismissed from any hearing during deliberation of the case unless he gives cause therefore. In that case, the proceeding shall continue and the accused may be admitted to the hearing whenever such cause for his removal ceases to exist. The court shall keep him informed of any action that has been taken during his absence.

Article 159 : The court shall not be bound by the description included in the memorandum of the charges. It shall give the act the proper description even though the description is not compatible with the memorandum of the charges, and shall advise the accused accordingly.

Article 160 : The court may, at any time, permit the Prosecutor to amend the memorandum of the charges at any time. The accused shall be notified of such amendment and be granted sufficient opportunity to prepare his defense with respect to such amendment, according to law.

Article 161 : During the hearing, the court shall inform the accused of the offense of which he is charged and shall read and explain to him the memorandum of the charges and provide him with a copy thereof. The court shall then ask the accused to respond.

Article 162 : If the accused at any time confesses to the offense of which he is charged, the court shall hear his statement in detail and examine him. If the court is satisfied that it is a true confession and sees no need for further evidence, it shall take no further action and decide the case. However, the court shall complete the investigation if necessary.

Article 163 : If the accused denies the offense of which he is charged, or refuses to respond, the court shall proceed to hear the evidence and take whatever action it deems necessary with respect thereto. It shall interrogate the accused in detail regarding the evidence and the content of memorandum of the charges. Each of the parties may cross-examine the witnesses called by the other party and discuss its evidence.

Article 164 : Each of the litigants may request to call any witnesses and review evidence they may present and request taking a specific action in connection with investigation proceedings. The court may reject such a request if it considers that it is intended for delay, malice, or deception, or that granting such a request is not probative.

Article 165 : The court may call any witness whenever it concludes that there is a need to hear or cross-examine his statements. It may also hear any person who, on his own

accord, appears before the court, if it considers that to be useful in determining the truth.

Article 166 : Subject to the Shari'ah rules governing the testimony with respect to *hadd* cases, a person summoned to testify, pursuant to a judge's order, shall appear before the court at the designated place and time.

Article 167 : If it is established that a witness has knowingly given false statements, he shall be punished for the crime of perjury.

Article 168 : If a witness is a child or his testimony is otherwise inadmissible, his statement shall not constitute a testimony. However, if the court considers that such testimony could be useful, it may proceed to hear that witness. If the witness is ill or is otherwise under a serious physical disability, rendering his examination by the judge impossible, the court may seek the assistance of someone who can communicate with that witness, but such statements shall not constitute a testimony.

Article 169 : Testimony shall be given at the court session, and each witness shall be heard separately. Where necessary, witnesses may be kept apart and confronted with each other. The court shall refuse to direct any question intended to influence the witness, or if it is a leading question. The court shall not allow directing any indecent question, unless it relates to material facts, leading to decision in the case and shall protect the witnesses against any attempted intimidation or confusion during the testimony.

Article 170 : Where necessary, the court may move to the place where the crime has been committed, or to any other place, for inspection, or to hear a witness who is unable to appear, or to ascertain any matter. The litigants shall be permitted to appear at the other place, and a judge may be assigned for that task. Any action taken by this judge shall be subject to the rules applicable to trial proceedings.

Article 171 : The court may issue an order requiring any person to surrender anything in his possession to that court and may also order the seizure of anything relating to the case in issue, if that action is deemed useful for determining the truth. Any document or other item produced during the trial may be kept, pursuant to a court order, pending the disposal of the case.

Article 172 : The court may assign one or more experts to advise on any technical questions related to the case. The expert shall provide the court, within the prescribed time, with a written report stating his opinion. Litigants may obtain a copy of that report. If the litigants, witnesses or either of them do not understand Arabic, the court may seek the assistance of interpreters. If any willful default or misrepresentation is established against one of the experts or interpreters, the court shall punish him.

Article 173 : Each of the litigants may provide the court with whatever they have in writing in connection with the case in issue, for inclusion in the file thereof.



Article 174 : The court shall first hear the prosecutor's charges, then the response of the accused or his representative or attorney. Then, the court shall hear the claimant regarding the private right of action to be followed by the response of the accused or his legal representative or attorney. Each of the parties shall be entitled to comment on the statement of the other party, and the accused shall be the last to address the court. The court may prohibit any party from continuing the pleading if his statement is irrelevant or repetitive. Thereafter, the court may either render a judgment acquitting the accused or convicting the accused and imposing the punishment. In both cases, the court shall dispose of the private right of action.

### **Chapter VII: Forgery as Subsidiary Action**

Article 175 : The Prosecutor and all litigants may, at any stage of the proceedings, contest any part of the evidence as being forged.

Article 176 : The contestation shall be filed with the trial court and must specify the contested evidence and the grounds thereof.

Article 177 : If the trial court has reason to believe that there is a prima facie case of forgery, it shall refer the relevant documents to the competent authority and stay the action until the competent authority has issued a decision on the forgery action, where the judgment on the case in issue is contingent on the contested documents.

Article 178 : If it is decided that there is no forgery, the court shall punish the accuser, if appropriate.

Article 179 : If it is decided that all or part of a formal document has been forged, the court that has passed such decision shall order such document excluded or corrected, as the case may be. A note to that effect shall be entered into the record and the forged document be marked accordingly.

### **Chapter VIII: Ruling**

Article 180 : A court shall base its judgment on the evidence produced during the trial. The judge shall not base his judgment on his knowledge of the facts, nor on facts contradicting such knowledge.

Article 181 : Any judgment rendered on the subject matter of a criminal action shall decide the plaintiff's claims regarding the private right of action and those of the accused, unless the court elects that a decision on those claims requires conducting special investigations upon which disposal of the criminal action may be postponed. In such a case, a court shall postpone the disposal of these claims, pending completion of the investigation.

Article 182 : The judgment shall be read in an open session at which the parties must be present, even though the case has been considered in closed sessions. The judgment shall be jointly signed by all the judges who participated in rendering it, and who must all be present at the time when the judgment is read, unless the absence of any of them is excusable. The judgment shall indicate the name of the rendering court, its date, names of the judges, names of the litigants, the crime subject of the action, a summary of claims or defenses submitted by litigants and the supporting evidence and arguments, the stages of the action, the text of the judgment, reasons and legal bases therefor, and whether it was rendered unanimously or by majority vote.

Article 183 : Any judgment shall be entered in the Judgment Record and be kept in the file of the action within ten days from the date it was rendered. An official copy thereof shall be given to the accused, to the Prosecutor and to the claimant of the private right of action, if any. Once the judgment has become final, it shall be formally communicated to whomever the court deems appropriate.

Article 184 : The court rendering judgment on the subject matter shall dispose of the litigants' claims in relation to the seized items. Where necessary, it may refer the dispute with respect to these items to a competent court. During the hearing, the court may also render a judgment with respect to the disposal of these seized items.

Article 185 : A judgment disposing of the seized items – as provided for under Article 184 hereof – shall not be executed if the judgment rendered in the action is not final, unless these items are perishable, or if the safekeeping thereof is very costly. If the court decides that the seized items be delivered to a particular person, such delivery may be prompt, with an undertaking, with or without guarantee, that the items received by him will be returned if the judgment pursuant to which he received those items is not upheld.

Article 186 : If the crime relates to the possession of real estate, the court may, during the proceedings, issue an order that such real estate be expropriated and placed at the court's disposal. If a person is convicted of a crime accompanied by the use of force, and if it appears to the court that someone has been dispossessed of real estate by the use of such force, it may issue an order that the said real estate be returned to the person from whom it was usurped, without prejudice to the rights of other parties to the real estate.

Article 187 : If an accused is convicted, or acquitted, pursuant to a judgment on the subject matter of the criminal action, no other criminal action shall be initiated against this accused in respect of the same acts and facts upon which the judgment has been rendered. If another criminal action is initiated, the previous judgment shall be maintained at any time of this action, even if the case is being considered by the Appellate Court. The court shall have due regard of the previous judgment, even if the

issue has not been maintained by the litigants. Any previous ruling shall be established by submitting an official copy thereof, or a certificate issued by the court with respect thereto.

## **Chapter IX: Invalidity**

Article 188 : Any action that is inconsistent with the principles of Shari'ah or the laws derived therefrom shall be invalid.

Article 189 : If the invalidity is attributable to non-compliance with the laws governing the composition or jurisdiction of the court, it may be maintained at any time of the hearing and be disposed of by the court without a motion.

Article 190 : Except as otherwise provided for under Article 189 hereof, if the invalidity is attributable to a correctable defect in the proceedings, the court shall correct it. If it is attributable to an uncorrectable defect, the action shall be held invalid.

Article 191 : The invalidity of a certain action shall not affect the validity of the prior actions, nor the subsequent actions, unless they have been based thereon.

Article 192 : If it appears to the court that the action includes an essential defect that cannot be corrected, it shall issue a judgment dismissing the case. That judgment does not preclude the refile of the case when the legal requirements have been satisfied.

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## **PART SEVEN**

### **WAYS TO OBJECT TO JUDGMENTS: APPEAL AND RECONSIDERATION**

#### **Chapter I: Appeal**

Article 193 : The accused, the Prosecutor, and the claimant of the private right of action shall be entitled to appeal any judgment whether it relates to conviction, acquittal, or lack of jurisdiction. The court shall notify these parties of such right upon reading of the judgment.

Article 194 : An appeal against a judgment shall be within thirty days from the date of receipt of a copy of the judgment. Following the reading of the judgment, the court shall designate a date for the receipt of a copy of the judgment, within a maximum period of ten days from the date of reading the judgment, and enter the same in the case record. The appellant shall be required to sign an acknowledgement of receipt. If he fails to appear on the appointed date for receiving a copy of the judgment, such copy shall, on the same date, be deposited in the file of the case, and a note to that effect shall be

entered into the record pursuant to a judge's order. The thirty-day period specified for the appeal starts running on the deposit date. The authorities in charge of the prisoner shall bring him on the prescribed time to provide him with a copy of the judgment, and shall also bring him to submit his appeal within the designated time.

Article 195 : Should an appellant fail to file his memorandum of appeal within the period provided for under Article 194 herein, the trial court shall, within forty-five days from the date of pronouncing the judgment, file that judgment with the Appellate Court. If the judgment involves a death sentence, stoning, amputation or *qisas* (not involving death), such judgment shall be appealed even if no litigant so requests, and the court shall file its judgment within the above-mentioned period to the Appellate Court.

Article 196 : The appeal memorandum shall be filed with the trial court, stating the appealed judgment, its date, the grounds for that judgment, the appellant's requests, and reasons supporting his appeal.

Article 197 : The court rendering the appealed judgment shall review the memorandum of appeal with respect to the grounds for such appeal without holding hearings, unless otherwise necessary. If it appears to the court that there is reason for amending that judgment, it shall be amended accordingly. Otherwise, the court shall uphold its judgment and refer it along with all the documents to the Appellate Court. If the judgment is amended, it shall be communicated to the appellant and to the other litigants and, in that case, shall be subject to the applicable rules of procedure.

Article 198 : The Appellate Court shall first consider the formalities of the appeal, and whether the appellant is entitled to file an appeal, and shall then decide whether to accept or reject the appeal for formality reasons. If the form of the appeal is rejected, the court shall issue a separate decision to that effect.

Article 199 : The Appellate Court shall dispose of the subject matter of the appeal on the basis of the evidence included in the file of the case. Litigants shall not appear before the court, unless it decides otherwise.

Article 200 : The Appellate Court may permit the litigants to submit new evidence to support the grounds of their appeal. It may also take whatever action that facilitates disposing of the subject.

Article 201 : A judgment shall be reversed if it contradicts the text of the Qur'an or Sunnah or the consensus of Muslim jurists.

Article 202 : A judgment shall be reversed if it violates the laws concerning the competence of the court with respect to its composition or jurisdiction to review the case. The Appellate Court shall designate the competent court and refer the case to it.

Article 203 : If the Appellate Court accepts the form and substance of the appeal, it shall remand the same to the trial court for reconsideration on the basis of the remarks supporting the decision of the Appellate Court. If the trial court is satisfied with those

remarks, it shall amend the judgment accordingly. If the trial court is not satisfied and maintains its previous judgment, it shall answer the remarks raised by the Appellate Court.

Article 204 : The Appellate Court shall give its comments on the judgments referred to it with or without an appeal, in accordance with the provisions of Article 203.

Article 205 : If the Appellate Court is satisfied with the responses furnished by the trial court with respect to the remarks it raised, it shall affirm the judgment. If not, it shall reverse the appeal in whole or in part, as the case may be, and shall state the grounds thereof. It shall then remand the case to another court for rendering a judgment in accordance with the law. If the appealed judgment is complete in every respect, and if urgent action is deemed necessary, the Appellate Court may render judgment on the subject matter. Whenever the Appellate Court renders a judgment, such judgment shall be rendered in the presence of the litigants and its judgment shall be final, unless it is a death sentence, stoning, amputation or *qisas* (other than death), in which case it shall be referred to the Supreme Judicial Council.

## **Chapter II: Reconsideration**

Article 206 : Any of the litigants may apply for reconsideration of any final judgment imposing punishment, in the following circumstances:

- If an accused has been convicted of murder, but the person alleged to have been murdered turns out to be alive.
- If a person has been convicted of having committed a certain act, and yet another person has also been convicted of having committed the same act, thus resulting in contradiction that leads to the conclusion that one of the two persons should be acquitted.
- If the judgment has been based on evidence that turns out to be forged, or on testimony that turns out to be perjurious.
- If the judgment has been based on a previous judgment that was nullified.
- If after judgment, new evidence or facts that were unknown at the time of the trial, appeared, which could have led to the acquittal of the accused or the mitigation of punishment.

Article 207 : Request for a reconsideration shall be made by a petition submitted to the trial court and shall specify the judgment to be reconsidered and the grounds for such request.

Article 208 : The court shall consider the petition for reconsideration and shall first decide whether such petition is satisfactory as regards the form thereof. If it is accepted,

the court shall designate a date for considering the substance of that petition, and shall notify the parties accordingly.

Article 209 : The court's acceptance of the formal aspect of a petition for reconsideration of a decision shall not lead to the stay of execution of the judgment, unless it is a judgment involving a corporeal punishment – such as *qisas* , *hadd* , or *ta'zir* . In other cases, the court, may order a stay of execution in its decision to accept the petition for reconsideration.

Article 210 : Any acquittal judgment pursuant to a petition for reconsideration must, if the convicted person so requests, include moral and material compensation to mitigate the damage suffered by him.

Article 211 : If a petition for the reconsideration of a decision is rejected, any new petition based on the same facts shall not be filed.

Article 212 : Judgments rendered on the subject matter, pursuant to a petition for the reconsideration, may be objected to and appealed, unless such judgment was rendered by the Appellate Court, in which case the provisions of Article 205 hereof shall be implemented.

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## **PART EIGHT**

### **THE FORCE OF FINAL JUDGMENT**

Article 213 : Final judgments are those that have become final after having been accepted by the party against whom they were rendered or after having been affirmed by the Appellate Court or the Supreme Judicial Council, each according to its jurisdiction.

Article 214 : A criminal case in respect of which a judgment has been rendered shall not be reconsidered except where an appeal from that judgment has been filed in accordance with the provisions herein.

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## **PART NINE**

### **ENFORCEABLE JUDGMENTS**

Article 215 : Penal judgments shall not be enforced unless and until they have become final.

Article 216 : An accused detainee shall be promptly released in case of an acquittal or if not sentenced to a term of imprisonment or if the term of imprisonment passed against him has expired while the accused was in detention.

Article 217 : If a convicted person is sentenced to a term of imprisonment and has already served part of that term while being detained in connection with the case that has been adjudicated, the period of such detention shall be deducted from the term of imprisonment imposed on the accused. An accused person, who has been harmed as a result of malicious accusation or as a result of being detained or imprisoned for a period exceeding the term prescribed for such detention or imprisonment, shall be entitled to compensation.

Article 218 : The court rendering a judgment of conviction may order that the execution of its penal judgment be postponed if there are material reasons for such postponement. The judgment shall specify in its text these reasons as well as the period of postponement.

Article 219 : The Chief of the court that has rendered the executable penal judgment shall send it to the Administrative Governor to take enforcement actions. The administrative Governor shall take immediate action to enforce that judgment.

Article 220 :

(a) Judgments imposing death, stoning, or amputation shall only be executed pursuant to a Royal Order to be issued by the King or his authorized representative.

(b) Representatives of the Administrative Governor, the Court, the Bureau of the Promotion of Virtue and Prevention of Vice, and the police shall witness the execution of the judgment involving death, stoning, amputation, or flogging.

Article 221 : The provisions the Shari'ah Procedure Law shall apply when there are no provisions provided herein, and in matters that are not inconsistent with the nature of penal actions.

Article 222 : The implementation regulations of this law shall define the procedure for enforcement of penal judgments relating to criminal cases.

Article 223 : The Council of Ministers shall issue rules for the implementation regulations of this law pursuant to a recommendation by the Minister of Justice after agreement with the Minister of Interior.

Article 224 : This law shall repeal any provisions inconsistent therewith.

Article 225 : This law shall be published in the Official Gazette and be implemented on expiry of one hundred and eighty days after it has been published.