

In The Name of God
The Compassionate the Merciful

The Penal Code 1991

In The Name of God
The Compassionate the Merciful

Memorandum to the Penal Code 1991

There has been a continuous call by the Sudanese people for an Islamic penal code in the Sudan addressed to consecutive governments of the Sudan since independence. Thus the first thing that the Revolution for National Salvation has paid attention to after finishing the important steps for securing the country's safety and unity was asserting the country's identity and the promulgation of the original Sudanese Laws derived from Islamic Law in response to the Sudanese people's aspiration and in fulfilment of the promise made by the revolution. After reviewing available studies which had been submitted in respect of the Penal Code 1974, the Penal Code 1983, the draft bills of the penal code prepared by the Arab League the Al Azhar, United Arab Emirates, Pakistan and the Arab Republic of Egypt which resulted in the Penal Code 1989 which was submitted to the last constituent assembly and was approved in its first and second reading but was delayed by political parties' disputes and foreign pressures. we resolved after such meticulous reviewing to the new bill maintaining the main features which were subject of agreement:

these are the following.

1) Layout

The layout of the bill is in two parts:

General Part at the beginning of the bill containing provisional principles, the enforcement of the law, grounds for criminal responsibility and reasons for diminishing responsibility, attempts, joint acts and principles of punishment:

Private Part containing the main Hudud offences, Qisas, and Taazir punishments arranged according to their subject.

2) Checking

The drafting and expression of meanings have been checked and adjusted. Developed criminal jurisprudence has been taken into account and faults highlighted through the application experience of previous laws have been corrected. The main Islamic principles have been stressed and the excessive division of various types of offences has been excluded in order to enable the court to take into consideration the details of the particular facts and the mitigating and the enhancing circumstances such as the offences against property like theft, armed robbery, cheating and offences committed by public servants.

3) Sources

The legislature sanctioned Islamic Shariah as the main source for the law whereby the law rules shall be based on Shariah's sources, and general principles and shall contain Hudud, Qisas and Diyah principles. The bill has adopted in matters of offences and punishments a discretion which takes into consideration the Shariah principles and schools of Jurisprudence (Madhahib) and

acknowledges the modern developments and suits the country's conditions. The Bill also used the juristic terms to link the act with the juristic and Arabic heritage as far as it suits the modern and current terminology in the Sudan.

4) Origination

The Bill has created new principles mainly the creation of new offences such as offences relating to protection of the environment, offences of terrorism, offences against personal freedom, care and reform measures for juveniles, mental patients and the elderly. As for the penal policy the bill minimised imprisonment sentence and flogging except in offences that require deterrence. It has also created sentences of banishment and distinguished sentences from compensation penalties.

5) Exclusion

The bill has excluded wide political incrimination and carried out a wide amendment in favour of freedom in connection with political offences against the State. It has therefore excluded the provisions which contain wide meanings unsuitable for definite criminal laws and the principle of legality. The bill has also excluded offences which are more in the nature of administrative offences as well as excluded the explanations and the rules of evidence contained in other laws.

6) Southern Provinces

The bill has excepted the Southern Provinces from the application of provisions regarding drinking alcohol or dealing in alcohol or carrion. They have also been excepted from the application of Hudud (punishments laid down by the Qur'an or the Sunna) for apostasy, Sariqah Hadiyah (theft punishable with amputation) and Gadhf (casting accusation of in chastity) as well as Zina (adultery) and Qisas (retribution) awaiting the establishment of the said Provinces' Federal System and deciding concerning the said rules and punishments in compliance with the decisions and resolutions of the Conference of National Dialogue on peace issues.

In The Name of God
The Merciful The Compassionate

PENAL CODE 1991

Arrangement of Sections

CHAPTER 1
PRELIMINARY AND ENFORCEMENT

Part I
Preliminary

Section
1) Title and date of Commencement
2) Repeal
3) Interpretation and explanations

Part II Enforcement

- 4)Retroactive Effect
- 5)Offences committed within the Sudan
- 6)Offences committed outside the Sudan
- 7)Offences committed by Sudanese
- 8)Grounds of criminal responsibility
- 9)Act of a child
- 10)Acts of a person incapable of judgement by reasons of insanity intoxication and the like
- 11)Performance of duty and use of right
- 12)Right of self defence
- 13)Duress
- 14)Involuntary Acts
- 15)Necessity
- 16)Accidental Act
- 17)Consent
- 18)Mistake of Facts.

CHAPTER III ATTEMPTS AND JOINT ACTS (CRIMINAL COMPLICITY)

Part I Attempt

- 19)Definition of attempt
- 20)Punishment of attempt

Part II Joint Acts

- 21)Complicity to execute a criminal agreement
- 22)Complicity without criminal agreement
- 23)Order to commit an offence and duress
- 24)Criminal conspiracy
- 25)Abetment
- 25)Aiding

CHAPTER IV PUNISHMENT

Part I Penalties

- 27)Death penalty (Execution)
- 28)Qisas (Retribution)
- 29)Conditions for Qisas
- 30)Multiplicity of Qisas

- 31) Lapse (Abatement) of Qisas
- 32) Awliyaa Al Damm (Next of Kin or Guardians) of victims who have the right of Qisas
- 33) Imprisonment and punishment
- 34) Fine
- 35) Flogging
- 36) Confiscation and destruction.
- 37) Closing down.
- 38) Pardon

Part II

Specification and Assessment of Taazir, Punishment, Multiplicity and Recidivism

- 39) Specification and assessment (Chastisement Penalty)
- 40) Multiplicity of offences and its effect on punishment
- 41) Recidivism

Part III

Compensation

Diyah

- 42) The Diyah
- 43) Sentence of Diyah
- 44) Who is entitled to Diyah
- 45) Who shall pay the Diyah and how to be collected from him
- 46) Refund of property or benefit or compensation

Part IV

Measures of Care and Correction (Reform)

- 47) Measures for juveniles
- 48) Measures for elderly person
- 49) Measures for persons suffering from mental diseases

Part V

Offences against the State

- 50) Undermining the constitutional system
- 51) Waging war against the State
- 52) Dealing with an enemy State
- 53) Espionage
- 54) Voluntarily allowing prisoners of war to escape
- 55) Disclosure and receipt of official information and documents
- 56) Disclosure of military information
- 57) Entry and photography of military areas and works.

CHAPTER VI

OFFENCES RELATING TO REGULAR (ARMED) FORCES

- 58) Abetment of mutiny
- 59) Abetment of desertion of military service and harbouring deserter
- 60) Use of military dress or badges and dealing in the same
- 61) Unlawful training
- 62) Attempt to cause disaffection and induce to commit any breach of discipline amongst the members of the regular forces

CHAPTER VII FITNAH (SEDITION)

- 63) Calling for opposition to the public authority by violence or criminal force
- 64) Exciting hatred against classes or between them
- 65) Criminal and terrorist organisations
- 66) Propagation of false news

CHAPTER VIII OFFENCES AGAINST THE PUBLIC TRANQUILLITY

- 67) Rioting
- 68) Punishment of rioting
- 69) Breach of public peace

CHAPTER IX OFFENCES AFFECTING SAFETY AND PUBLIC HEALTH

Part I Acts Which Endanger Life and Property

- 70) Pollution of reservoirs
- 71) Environment
- 72) Exposing ways and means of transport to danger
- 73) Stopping of work causing danger to life or damage to the public
- 74) Negligence causing danger to person or properties
- 75) Omission to render necessary assistance
- 76) Breach of legal obligation towards a helpless person

Part II Public Nuisance/Drinking Alcohol and gambling

- 77) Public Nuisance
- 78) Drinking alcohol and nuisance
- 79) Dealing in alcohol
- 80) Gambling or running gambling places
- 81) Persistent offenders

Part III Food, Drinks and Medicines

- 82) Sale of Noxious food and
- 83) Adulteration of food and dealing in the same.
- 84) Adulteration of drugs and dealing in the same
- 85) Sale of Meita (carcass - Carrion)
- 86) Offer or sale of forbidden food or drink

Part IV

- 87) Cruelty to animals

CHAPTER X

OFFENCES RELATING TO PUBLIC SERVANTS

- 88) Bribery (Gratification)
- 89) Public servant disobeying direction of law with intent to cause injury or protection
- 90) Public servant who abuses his authority to commit to trial or confinement
- 91) Public servant intentionally omitting to arrest or aiding escape
- 92) Public servant unlawfully buying or bidding for property
- 93) Impersonation of a public servant
- 94) Failure to attend following an order by a public servant
- 95) Stopping or removal of a summons
- 96) Refusal to deliver a document or submit a statement.
- 97) Making a false statement.
- 98) Answering questions or signing statements
- 99) Obstruction of a public servant during the course of his duties
- 100) Omission to assist a public servant..
- 101) Contravention of residence order
- 102) Contravention of an order of a public servant regarding property
- 103) Threat to a public servant

CHAPTER XI

RELATING TO ADMINISTRATION OF JUSTICE

- 104) Perjury and creation of false evidence
- 105) Using evidence known to be false
- 106) Destruction or hiding of evidence
- 107) Screening or harbouring offender
- 108) Receiving gift to screen an offender from punishment.
- 109) Resistance of lawful arrest or rescue of offender from confinement
- 110) Resistance or obstruction by a person to his lawful arrest or escape
- 111) Disposal of property by fraud to prevent attachment or execution
- 112) Claims to protect a debtor or deprive debtors
- 113) Impersonation
- 114) False accusation
- 115) Influencing the course of justice
- 116) Insult to public servant sitting in judicial proceedings

CHAPTER XII

OFFENCE OF COUNTERFEIT COINS AND NOTES

- 117) Currency counterfeit
- 118) Counterfeit revenue stamps
- 119) Making or possession of counterfeit instruments
- 120) Making and counterfeiting stamps and official marks
- 121) Dealing with false units of weight, measure or standard
- 122) Forgery of documents
- 123) Penalty for forgery of documents
- 124) Falsification of a document by a public servant

CHAPTER XIII

OFFENCES RELATING TO RELIGION

- 125) Insulting religious creed
- 126) Ridda (Apostasy)
- 127) Defiling or disturbing places of worship
- 128) Committing trespass on the dead and burial places

CHAPTER XIV

OFFENCES AFFECTING HUMAN BODY AND LIFE

- 129) Types of murder (Homicide)
- 130) Murder
- 131) Quasi intentional murder
- 132) Unintentional (Culpable) homicide
- 133) Attempt to commit suicide
- 134) Abetment of suicide of child or insane person
- 135) Miscarriage
- 136) Causing miscarriage
- 137) Causing death of unborn child
- 138) Types of injury
- 139) Punishment of intentional causing of injury
- 140) Punishment of Quasi-intentional causing of injury.
- 141) Punishment of unintentional causing of injury
- 142) Hurt
- 143) Criminal force
- 144) Criminal intimidation

CHAPTER XV

OFFENCES AGAINST HONOUR, REPUTATION AND PUBLIC MORALS

- 145) Zina (Adultery)
- 146) Punishment for Zina
- 147) Cases where punishment for Zina lapses
- 148) Sodomy
- 149) Rape
- 150) Offences of incest

- 151)Indecent acts
- 152)Obscene and indecent acts
- 153)Material and expositions contrary to public morals
- 154)Prostitution
- 155)Running a place for prostitution
- 156)Seduction
- 157)Qadhf (casting accusation of in chastity)
- 158)Lapse of penalty for Qadhf
- 159)Defamation
- 160)Wrong and abuse

CHAPTER XVI

OFFENCES RELATING TO INFRINGEMENT OF PERSONAL FREEDOM

- 161)Enticement abduction
- 162)Abduction
- 164)Forced labour
- 165)Unlawful restraint
- 166)'Violation of privacy

CHAPTER XVII

OFFENCE AGAINST PROPERTY

- 167)Haraba (Highway Robbery)
- 168)Punishment for Haraba
- 169)Lapse of Haraba punishment
- 170)Al Sariqah Al Hadiyah (Theft punishable with amputation)
- 171)Punishment of Sariqah Hadiyah
- 172)Cases where punishment for lapses.
- 173)Punishment of Sariqah Hadiyah when Had punishment lapses
- 174)Theft
- 175)Robbery
- 176)Extortion
- 177)Criminal breach of trust
- 178)Cheating
- 179)Giving or endorsement of an uncovered cheque
- 180)Criminal misappropriation
- 181)Receiving of stolen property
- 182)Criminal mischief
- 183)Criminal trespass
- 184)Lurking with criminal intent
- 185)Making a tool for criminal purpose

SCHEDULE

- First Schedule - Limbs and injuries subject to Qisas.
- Second Schedule - Diyah.

In The Name of God
The Merciful The Compassionate

THE PENAL CODE 1991

In accordance with the third constitutional decree 1989 the Salvation Revolution Command Council passed the following Act:

CHAPTER I

PRELIMINARY AND ENFORCEMENT

Part I
Preliminary

1 Title and Date of Commencement

This Code may be cited as "The Penal Code 1991" and shall come into force after a month of the date of its publication in the official gazette.

2 Repeal

The penal Code 1983 shall be repealed

3 Interpretation and Explanations

In this Code unless the context otherwise requires the following words and sentences shall have the meanings and explanations shown in front of them:

"Judicial Proceeding": includes any proceeding in course of which evidence may be taken according to the law.

"Likely": an act is said to be likely to have a certain consequence or a certain effect if the occurrence of that consequence or effect would cause no surprise to a reasonable man.

"Grievous Harm": means injuries as defined by this code with the exception of cracks and cuts afflicted on the skin.

"Grave Provocation": means causing grave anger which steps from full ascertainment and caution and causes departure from the state of moderation. Provocation shall not be taken into consideration in the following cases:

- (a) If it is sought voluntarily by the offender as an excuse for committing an offence.
- (b) Given by anything done in obedience to the law by a public servant in the lawful exercise of the powers of such public servant.
- (c) Given by anything done in the lawful exercise of the right of private defence.

"Harbour": A person is said to harbour another person when he supplies that person with shelter or food or assists that other in any way to evade arrest.

"Adult": Means the person who attained puberty evidenced definite natural signs and completed fifteen years of age. Whoever completed eighteen years of age shall be regarded as adult even if the natural physical signs were not evident.

"Offence": Includes an offence punishable under this code or any other law.

"Hudud Crimes": Means offences of Drinking, Apostasy, Zina, Haraba and Sariqah Hadiyah.

"In Good Faith": A person is said to have done a thing in good faith if the act or belief took place with soundness of intention and exerting due care and precaution.

"Khamr (Wine)": Includes any alcoholic drink whether little or much of it intoxicates and whether it is pure or mixed.

"Man" and "Woman": Man means the adult male, woman means the adult female.

"Consent": Means assent. Assent given by the following shall not be taken into consideration:

- (a) A person under duress or misapprehension of facts and the person who committed the act knew that the consent was given as a result of duress or mistake. Or
- (b) A person under age Or
- (c) A person who could not perceive what he has consented to or its consequences because of the imbalance of his mental or psychological faculties.

"Public Authority": Means any competent authority of the State and includes any Public Organization, Corporation and Public Sector Companies.

"Document of Title": Means a document which is or purports to be a document whereby a legal right is created, extended, transferred, restricted, extinguished or released, or whereby the existence or extension of a legal right is acknowledged or established.

"Dishonestly": A person is said to act "dishonestly" if he acts with the intention of obtaining wrongful gain to himself or others or with the intention of causing wrongful loss to another person. And the term "Wrongful Gain" means obtaining property or seizing it by unlawful means and the term "Wrongful Loss" means the deprivation of any person of his property or preclusion or seizure by illegal means.

"Person": The word person includes any natural person, every company or society or body of persons whether incorporated or not.

"Injury": Means any harm inflicted on a person in contravention of the law on his body or mental and psychological health or his honour or his property or reputation.

"Immovables and Movables": Includes land and anything permanently fastened to it and things otherwise are movables.

"Taazir Punishment": Means any punishment other than Hudud or Qisas punishments.

"Knowledge": A person is said to have knowledge of something if he is aware of it or has reason to believe it.

"Act": The words which manifest "act" includes unlawful abstention and denotes a series of acts.

"Intention": A person is said to produce the effect intentionally if he caused it by using means intended to cause it or by using means he knew at the time of using them shall produce that effect or had reason to believe that it may produce it.

"Fraudulently": A person is said to act Fraudulently, if he acted with the intention to defraud others to obtain as a result of this deceit a benefit or advantage for himself or others or to cause a loss to others.

"Orderly Forces": Includes the armed forces, the security forces, police, prison forces, fire brigade forces, game wardens and any other forces formed in the future.

"Reason to Believe": A person is said to have reasons to believe if he had reasons to believe or the surrounding circumstances which calls upon his likes to believe.

"Court": Includes any court or body which exercises judicial proceedings by virtue of any law.

"Public Servant": Means any person appointed by a public authority to carry out a public job whether with or with or without consideration and whether permanently or temporarily.

"Probable Result": A thing is said to be a probable result of an act if the act or the means used results in such result in the majority of cases.

Part II

COMMENCEMENT

4 Retroactive Effect

(1) Notwithstanding the provisions of Section (2) the law in force at the time of the committal of the offence shall apply.

(2) In offences where no final judgement is given the provisions of this law shall be applied if it is in the benefit of the accused.

(3) The non-execution of any Had punishment shall be treated as Shubha (doubt) which causes the Had to lapse and the assessment of punishment shall be reviewed in respect convicts who received final judgements according to this Act.

(4) Any final judgement of Diyah given before the commencement of this law shall be reviewed according to the provision of this Act for recovery.

5 Offences committed within The Sudan

- (1) The provisions of this Act shall apply to any offence committed partly or wholly in the Sudan.
- (2) For the purposes of such Act the definition of Sudan shall include its air space, territorial waters and all Sudanese ships and aircraft wherever they are.
- (3) The provisions of Sections 78(1), 79, 85, 126, 139(1), 146(1) (2) (3), 157, 168(1), 171 shall not apply to the Southern Provinces unless otherwise decided by the competent legislative authority or the defendant demanded their application.

6 Offences Committed Outside The Sudan

- (1) Every person shall be liable to punishment in the Sudan: -
- (a) Who commits outside the Sudan whether as a principal or an abettor any of the following offences:
- (First) offences against the State.
- (Second) offences relating to Regular Forces.
- (Third) offences relating to counterfeiting notes or Revenue Stamps.
- If the offender is in Sudan.
- (b) Who by any act done in the Sudan abets the doing of any offence outside the Sudan which is an offence in the Sudan and is also an offence according to the law of the country where the offence was committed.
- (2) No person shall be punished in the Sudan for an offence committed outside the Sudan if it is proved that such person was tried outside the Sudan before a court of competent jurisdiction and has served his punishment or was declared innocent by such court.

7 Offences Committed By Sudanese

Every Sudanese who is outside the Sudan a party to and act as a principal or abettor to any offence under the Act shall be punished if he returned to Sudan and the act he committed constituted an offence according to the law of the country where the offence was committed unless it is proved that such person was tried outside the Sudan before a court of competent jurisdiction and has served his punishment or he was declared innocent by such court.

CHAPTER II

CRIMINAL RESPONSIBILITY

8 Grounds of Criminal Responsibility

- (1) No responsibility lies on persons except who are sane in mind and act voluntarily.
- (2) There is no responsibility except for illegal act committed with intent or an act committed negligently.

9 Act of a Child

A minor shall not be considered to commit a crime but measures of care and correction provided in this code shall be applied to whoever reaches seven years old as the court thinks fit.

10 Acts of a Person Incapable of Judgement by Reasons of Insanity, Intoxication and the

Like

No act is an offence which is done by a person who at the time of doing it, did not possess the power of appreciating the nature of his acts or controlling them by reasons of:

(a) Permanent or temporary insanity or mental infirmity or

(b) Sleep or unconsciousness or

(c) Intoxication caused by intoxicating substance or drug administered to him against his will or for necessity or without his knowledge. If the intoxication was voluntarily or with knowledge and without necessity the offender shall be presumed liable for the act as if he had not been intoxicated.

11 Performance of Duty and User of Right

An act shall not be an offence if performed by a person obliged to it or authorised to do it by law or by a legal order issued by the competent authority or he believed in good faith that he is bound to do it or authorised to do it.

12 Right of Self Defence

(1) An act shall not be an offence if it took place when done in the use of self defence lawfully.

(2) The right of self defence arises if a person is faced with the danger of instant or imminent attack on this person or his property or honour or the person of another and it was difficult for him to avoid the danger by resorting to the public authority or by any other means. In this case he may obviate the danger by what is necessary to obviate it and by the suitable means.

(3) The right of self defence shall not arise against a public servant if he is acting within the limits of his authority unless causing death or serious injury if feared.

(4) The right of self defence shall not amount to causing death unless the danger to be obviated may cause death or serious injury or rape or enticement or kidnapping or robbery or criminal mischief of property or public utility by inundation or by fire using burning or explosive, incendiary or poisonous materials.

13 Duress

No person shall be considered to commit a crime who performed the act under force or threat of death or serious injury to himself or his family or serious damage to his property if it prevailed on his mind that the threat shall be carried out and he could not avert this by other means.

14 Involuntary Acts

A person shall not be considered to commit a crime who had no drive at the time of committing the act and unable to control his acts by reason of compelling force or sudden illness which makes him unable to avoid this act.

15 Necessity

A person shall not be considered to commit an offence who is compelled to act by necessity to protect himself or his honour or his property or the person of others or their honour or their property from a serious imminent danger which is not caused intentionally by him and he is

unable to avoid it by other means, provided that such act shall not cause equal or larger injury to the injury to be averted. However necessity shall not permit murder except in cases of carrying a duty.

16 Accidental Act

No act is an offence if it is a result of an accidental lawful act which occurred in good faith and resulted in an unexpected damage.

17 Consent

(1) An act is not an offence if it causes injury to a person's body or property when this is done by that person's consent express or implicit.

(2) The provisions of Paragraph (1) shall not apply to acts which may cause death or grievous harm.

18 Mistake of Facts

A person does not commit an offence if he believes in good faith because of a mistake of facts that the act is permitted.

CHAPTER III

ATTEMPTS AND JOINT ACTS (CRIMINAL COMPLICITY)

Part I

Attempt

19 Definition of Attempt

Attempt is to perform an act which purports a clear indication of the intent to commit an offence if the offence is not complete for reasons beyond the doers' will.

20 Punishment of Attempts

(1) Whoever attempts to commit an offence shall be punished by not more than half the maximum penalty prescribed for the offence. If the attempt constitutes an independent offence the offender shall be punished with the punishment for it.

(2) If the punishment of an offence is the death penalty or amputation the punishment for attempt shall be seven years.

Part II

Criminal Complicity

21 Complicity to Execute a Criminal Agreement

If two persons or more commit an offence in execution of a criminal agreement between them, each shall be liable for that offence in the same manner as if it were committed by him alone and

shall be punished with the punishment prescribed for it.

22 Complicity Without Criminal Agreement

If two persons or more commit an offence without criminal agreement each shall be liable for his act and shall be punished with the punishment prescribed for the offence which such act constitutes.

23 Order to Commit an Offence and Duress

Whoever orders a incumbent or bona fide person to commit an offence or compels a person to commit such act shall be liable for it in the same manner as if it were done by him alone and he shall be punished with the punishment prescribed for this offence.

24 Criminal conspiracy

(1) Criminal conspiracy is an agreement between two persons or more to commit an offence.

(2) With the exception of offences or murder, Haraba (Highway Robbery) offences against the state punishable with death, criminal conspiracy shall be an offence punishable as attempt to commit the offence and in all cases the reversed conspiracy is not an offence.

(3) Whoever commits criminal conspiracy shall be punished with imprisonment for a term not exceeding five years and in case the offence is committed or attempted the punishment shall be the punishment prescribed for attempt or commission of the offence as the case may be.

25 Abetment

(1) Abetment is inducement by a person to another to commit an offence or ordering a person in charge under his authority to commit it.

(2) Taking into consideration that punishment shall not exceed the punishment prescribed for the offence the abettor shall be punished as follows:

(a) If the offence is not committed or attempted punishment shall be imprisonment for a term not exceeding five years.

(b) If the offence is committed or attempted the punishment shall be imprisonment for a term not exceeding ten years or fine or both. If the penalty prescribed for the offence is flogging the offender shall be punished with flogging not exceeding half the penalty.

(3) Whoever abets the commission of an offence and is present at the time when it is committed shall be deemed to have committed such offence.

(4) Who abets a person to commit a specific act shall be liable for committing any other act which constitutes an offence done by that other person if such other act is a probable result of abetment.

26 Aiding

Whoever aids in committing any act which constitutes an offence with the intent to facilitate its occurrence shall be subject to the provisions of section 25 and punished with the punishment prescribed for the abettor as the case may be.

CHAPTER IV PUNISHMENTS

Part I Penalties

27 Death Penalty (Execution)

- (1) Execution shall be by hanging or stoning or by a similar way in which the offender committed murder and it may also be by way of Had or Taazir and it may be coupled with crucifixion.
- (2) Other than Hudud and Qisas offences the death penalty shall not be imposed upon who is not eighteen years old or his age is over seventy.
- (3) Death penalty with crucifixion shall not be imposed except in Haraba.

24 Qisas (Retribution)

- (1) Qisas is the punishment of a deliberate offender in the same way as his act.
- (2) The right of Qisas shall be vested in the victim and then transferred to his walis (next of kin or avengers of blood).
- (3) In cases of murder Qisas shall be by hanging until death and the offender may be killed in the same manner he killed if the court thinks fit.
- (4) In cases of cuts Qisas shall be according to the provisions of the first schedule appended to this code.

29 Conditions for Qisas

It is a condition to apply Qisas in cuts:

- (a) That the two limbs shall be identical in kind, soundness and amount, thus Qisas shall only be exacted in respect of the corresponding assaulted limb and thus a sound limb shall not be taken for a paralysed nor a complete for a defected or incomplete. A redundant limb shall not be taken for a genuine one. The whole shall be avenged for the whole and a part for a part whichever way the Qisas is to be applied.
- (b) That the possibility of exacting likeness without injustice so Qisas shall not result in the offender's death or exceeds the injury which he inflicted on the victim.

30 Multiplicity of Qisas

- (1) One shall be executed for several persons and several persons shall be executed for one.
- (2) Qisas shall be multiplied in cuts by the multiplicity of unsimilar cuts and the small is included in the bigger unless the offender intended to mutilate the victim then Qisas shall be by both cuts the small and then the bigger.
- (3) If the offender cuts similar parts of several victims and all of them are Qisas, the offender shall be punished by Qisas if demanded by one of them without prejudice to the right of the others to claim Diyah in full or part as the case may be.
- (4) If the offender cuts three places or more of one victim or victims and all deserved Qisas, he may be punished by Qisas by cutting the same or may be sentenced.

31 Lapse (Abatement) of Qisas

Qisas Lapses in any of the following cases:

- (a) If the victim or his guardian is a descendent of the offender.
- (b) if the victim or some of his guardians pardoned him for a consideration or otherwise.
- (c) If the cuts were inflicted with the consent of the victim.
- (d) If it is impossible that the offender shall recover from madness after being sentenced to Qisas.
- (e) If the subject of Qisas is lost as in cases of cuts.

32 Awhila Al Dam (Next of Kin or Guardians) of the Victim Who Has the Right of Qisas

- (1) The next of kin of the victims in Qisas are his heirs on his death.
- (2) If the victim was a minor or insane or an imbecile, his next of kin or guardian or keeper shall act for him and the court may wait until the minor becomes of age if it deems it fit.
- (3) The state is the guardian of whoever has no guardian or of any person whom the whereabouts of his guardian are unknown or is absent and his return is hopeless.
- (4) Awhila al Damm of the victim in cases of intentional murder or cuts have the right to claim Qisas or Diah or settlement by way of consideration or complete pardon, in cases of Quasi-intentional or culpable murder or cuts and the right to claim Diah or making settlement or pardon. He who represents a minor and their like shall have the right to pardon except for consideration not less than the Diah.
- (5) The absent Wali Al Damm or that whereabouts are unknown shall have the right of Qisas, Diah or pardon if he arrives before the execution of Qisas or payment of Diah.
- (6) Pardon shall not be retreated if it was an explicit pardon made by consent.

33 Imprisonment and Banishment

Imprisonment includes:

- (1) (a) Life sentence and its term is twenty years.
- (b) Banishment is imprisonment away from the area where the offence was committed and the place of residence of the offender.
- (2) Banishment which means limitation of the place of residence of the offender to an area away from the area where the offence was committed.
- (3) With the exception of Had Al Haraba a person who did not attain the age of eighteen shall not be sentenced to imprisonment.
- (4) With the exception of Had for Haraba a person who is seventy year old shall not be sentenced to imprisonment. If the sentence to imprisonment is changed or lapses for reaching the age of seventy, the offender shall be punished with banishment for the prescribed term of imprisonment.
- (5) In calculating the total terms of imprisonment in one trial for several offences the total punishment shall not exceed life imprisonment.
- (6) If the offence is punishable with fine only, the term of imprisonment in lieu of fine shall not exceed:
 - (a) Two months if the fine does not exceed LS. 1000.
 - (b) Four months if the fine does not exceed LS. 5000.
 - (c) Six months in any other case.

34 Fine

- (1) The court calculates the fine taking into consideration the nature of the committed offence, the value of wrongful gain gained the degree of the participation of the offender in it and his financial status.
- (2) The court may order to pay the fine in full or part in compensation to any person injured by the offence unless an independent judgement for compensation is made.
- (3) When a judgement is passed for a fine an alternative prison punishment shall be imposed in case of non-payment. If the convict paid part of the fine the alternative imprisonment shall be reduced by a percentage equal to what he paid.
- (4) Fine shall lapse by death.

35 Flogging

- (1) Except in Hudud offences flogging shall not be imposed on a person who is sixty years old nor on an ill person whose life could be endangered or flogging may increase his illness.
- (2) If the punishment of flogging lapses because of age or illness the offender shall be punished with an alternative penalty.

36 Confiscation and Destruction

- (1) Confiscation is a judgement which passes private property to the Estate ownership without consideration or compensation.
- (2) Destruction is the destruction of property without consideration or compensation.

37 Closing Down

Closure of a place is a judgement which prohibits the use of the place or doing any business in it in any way for a period not less than a month and not exceeding one year.

38 Pardon

- (1) Execution of Hudud shall not be remitted by pardon.
- (2) Execution of Qisas shall not lapse except by pardon of the victim or his next of kin.
- (3) Remission of Taazir punishment may be by pardon of the public authority totally or in part according to the code of criminal proceedings without prejudice to the rights of any person injured by the pardoned offence to compensation.

Part II

Specification and Assessment of Taazir (Discipline or Chastisement) Punishment, Multiplicity and Recidivism

39 Specification and Assessment of Taazir Punishment

The court shall take into consideration when specifying and assessing the reasonable Taazir punishment all the mitigating or aggravating circumstances, in particular the degree of responsibility and the active for the offence, the seriousness of the act, the seriousness of the damage and the dangerousness of the offender, his position, his criminal records and all the circumstances surrounding the incident.

40 Multiplicity of Offences and its Effect on the Punishment

If the act constitutes more than one offence, punishments interrelate and one punishment shall be imposed, that is the severest punishment.

(2) If there are multiple crimes the penalty of death for one shall absorb all other penalties with the exception of the penalty of confiscation.

41 Recidivism

If any person is convicted in any offence punishable with imprisonment and he was previously punished with imprisonment twice, the court shall punish him with imprisonment and shall admonish him. If after the admonition he committed another crime and is convicted in any offence, punishable with imprisonment, or he commits it during his imprisonment or within a year of his release, the court shall sentence him to imprisonment for a period not less than the maximum penalty imposed for this offence.

Part III

Compensation (Diyah)

42 Diyah

(1) Diyah is one hundred camels or its equivalent in money according to the direction of the chief justice from time to time after consultations with the competent authority.

(2) Diyah for Arch and Ghorra injuries shall be assessed according to the Second Schedule appended to this Act.

(3) Diyahs may multiply with the number of the victims, but shall not multiply with the number of offenders in the offence stipulating such punishment, but shall be divided between them equally if their participation was in execution of a criminal conspiracy among them. In other cases each one is responsible for his crime.

(4) No other compensation for murder and cuts shall be awarded with Diyah.

(5) In cases of culpable murder or cuts Diyah shall be assessed taking into consideration the participation of the victim in causing the offence.

43 Sentence of Diyah

The court shall deliver a sentence of Diyah according to the Second Schedule appended to this code in any of the following cases :

(a) In cases of intentional murder and cuts if Qisas lapses.

(b) In Quasi intentional murder or cuts.

(c) In unintentional murder or cuts.

(d) In murder or cuts caused by a minor or an incapacitated person.

44 Who is entitled to Diyah

Diyah is initially the right of the victim and then shall pass to his heirs according to their shares in the inheritance and if the victim has no heirs, the Diyah passes to the State.

45 Who Pays the Diah and How to be Collected from Him

- (1) Diah is binding on the offender alone in crimes of intended murder or cuts.
- (2) Diah is binding on the offender and his Aqilah (adult male relatives) in Quasi-intentional, or unintentional murder or injuries.
- (3) Aqilah shall include the agnates of the offender, the party he is insured with, the party jointly liable with him or the body with which he works if his offence was committed during the course of employment.
- (4) Diah for intentional murder and injuries shall be immediately due and may be postponed or paid by instalments with the victim's consent or his Awhila. Diah for Quasi-intentional or culpable acts may be immediately due or by instalments and whoever is responsible for such Diah shall furnish the necessary guarantees if demanded by the claimants.
- (5) Diah shall be collected according to the provisions of the Civil Procedures Act.

46 Recovery of Property or Benefit or Compensation

The court shall order on conviction of the accused the refund of any property or benefit obtained and may on the request of the victim or his Awhila pass a judgement for compensation for any harm resulting from the offence in accordance with the provisions of Civil Transactions Act and the Civil Procedures Act.

Part IV

Measures of Care and Correction (Reform)

47 Measures for Juveniles

The court may apply the following measures on a juvenile accused who has attained at the time of committing the criminal act at the age of seven but is below seventeen:

- (a) Reprimand in presence of his Guardian in the session.
- (b) Flogging which may not exceed twenty lashes as a means of discipline for the offender of ten years of age
- (c) Handing over the minor to his father or any other trusted person after undertaking to take good care of him.
- (d) Sending the minor to an institute of reform and social care, with the purpose of reforming and correcting him for a period not less than two years and not more than five years.

48 Measures for Elderly

Without prejudice to the Hudud penalties and the rules of Qisas the court may after conviction take the following measures concerning an elderly person who is seventy years of age if it thinks fit:

- (a) To hand over the elderly to his guardian or any other trusted person after undertaking to take good care of him.
- (b) Banishment for a period not exceeding the period of imprisonment fixed for his offence.
- (c) To commit him to one of the institutes of reform and social care.

49 Measures for Persons Suffering from Mental Diseases

If the court is satisfied that the accused is incapacitated by a mental or psychological disease, it may admit him to one of the institutes for mental and psychological diseases, and it may also put him under his guardian's care or under the care of any trusted person after undertaking to take good care of him.

CHAPTER V OFFENCES AGAINST THE STATE

50 Undermining the Constitutional System

Whoever commits any act intending thereby to undermine the Constitutional System of the State or to endanger its independence or unity shall be punished with death or life imprisonment and he may also be dispossessed of all his property.

51 Waging War Against the State

(a) Whoever wages war against the State militarily by recruiting soldiers or training the same or collecting arms and equipment or attempt the same or abets the commission of the said acts by the offender or aids in any manner

Or

(b) Whoever joins in any way the civil or military service of any State which is at war with the Sudan or conducts any commercial or any other dealings with this State or its agents

Or

(c) Whoever within the Sudan without the State's permission recruits and prepares soldiers for the invasion of a foreign State or does any offensive act against a foreign State which is calculated to expose the country to the threat of war

Or

(d) Whoever ruins, injures or damages any arms, ammunitions, equipment, ships, aircraft, means of transport or communication or any public buildings or public utility equipment such as electricity wires or water or the like. intentionally to jeopardise the country's military position, is said to commit the of waging war against the State and shall be punished with death or life imprisonment and may be dispossessed of all his properties.

52 Dealing With An Enemy State

Whoever without permission joins the service of any State which the Sudan declares to be an enemy State or performs. any commercial or other dealings with such State or its agents shall be punished with imprisonment for a term not exceeding ten years or with fine or with both..

53 Espionage

Whoever gets in touch or communicates with any foreign State or its agents or delivers secrets to such State intending thereby to aid such State in its military operations against Sudan or prejudice its Military position is said to commit espionage and shall punished with death or life imprisonment or a less term and may be dispossessed of all his property. If the espionage was not with such intent but was likely to prejudice the country politically or the offender shall be punished with imprisonment for a term not exceeding ten Years or with fine or both

54 Voluntarily Allowing Prisoner of War to Escape

Whoever being a public servant and having the custody of any prisoners of war voluntarily allows or negligently suffers such prisoners to escape or whoever voluntarily aids a Prisoner of war to escape or harbours him or resists his arrest shall be punished with imprisonment for a term not exceeding ten years or with fine or with both.

55 Disclosure and Receipt of Official Information or Documents

Whoever having in any manner acquired without lawful authority any secret or confidential information or documents as to the affairs of the State and whoever without lawful authority or excuse discloses or attempts to disclose such information or deliver such document to any person shall be punished with imprisonment for a term not exceeding two years or with fine or with both. Imprisonment shall be for five years if the offender was a public servant.

56 Disclosure of Military Information

Whoever being in possession of information as to the military affairs of the State at any time discloses the same to any person to whom he knows that it ought not in the interest of the country to be disclosed at that time shall be punished with imprisonment for a term not exceeding five years and shall also be liable to fine.

57 Entry and Photograph of Military Areas and Equipment

- (a) Whoever without lawful authority or excuse enters a military area Or
- (b) Whoever without permission makes photograph, sketch, plan, drawing or model for any military area, work or site which might be in any way useful to the enemy or to any person hostile to the State Or
- (c) Whoever without lawful authority or excuse in the vicinity of an area or work has in his possession any photographic or other apparatus or thing suitable for the use in making photographs, plans, drawings or models shall be punished with imprisonment for a term not exceeding one year or with fine or with both.

CHAPTER VI OFFENCES RELATING TO REGULAR ARMED FORCES

58 Abetment of Mutiny

- (1) Whoever abets any member of the regular forces to commit mutiny or disobedience or relinquish his duty to the state shall be punished with imprisonment for a term not exceeding seven years and may also be liable to fine.
- (2) If mutiny takes place as a result of the abetment the abettor shall be punished with imprisonment for a term not exceeding fourteen years.

59 Abetment of Desertion of Military Service and Harboursing the Deserter

- (1) Whoever abets a member of the regular forces to desert military service or harbours him after his escape knowing that he is a deserter shall be punished with imprisonment for a term not

exceeding five years or with fine or with both.

(2) The provisions of subsection (1) shall not apply to spouses, parents or children who harbour each other.

60 Use of Military Dress or Military Badges and Dealing in the Same

Any person who puts on an official dress or badge used by the Armed Forces or any dress or badge similar to those used by these forces and is not a member of the forces intending to be appears such shall be punished with imprisonment for a term not exceeding two years or with fine or with both.

(2) Any person who makes any dress or badge mentioned in subsection (1) or deals in the same or allocates it to his employees without a lawful permission shall be punished with imprisonment for a term not exceeding three years or with fine or with both in addition to the confiscation of the dresses or badges.

61 Illegal Training

Any person who is not a member of the regular forces and practices without any lawful permission any training or movements or maneuvers of a military nature or participates or abets the same shall be punished with imprisonment for a term not exceeding three years or with fine or with both.

62 Arousing the Feeling of Discontent within the Regular Force and Abetment of Committing Acts Which Disturb Order

Any person who arouses the feeling of discontent within the members of the regular forces or abets one of its members to refuse to carry out his duty or commit an act which disturbs order shall be punished with imprisonment for a term not exceeding five years and may be also liable to fine.

CHAPTER VII FITNAH (SEDITION)

63 Calling for opposition of the Public Authority by Violence or Criminal Force

Whoever calls, propagates or promotes any call for the opposition of the Public Authority by violence or criminal force shall be punished with imprisonment for a term not exceeding three years or with fine or with both.

64 Exciting Hatred Between Classes

Whoever seeks to excite hatred, enmity or contempt against any class of persons or between classes by reasons of difference in race, colour or language in such a way as to endanger the public peace, shall be punishable with imprisonment for a term which may not exceed two years or with fine or with both.

65 Criminal and Terrorist Organizations

Whoever forms or runs an organization which plans for committing an offence and whoever intentionally participates in or assists such organization whether it works inside or outside Sudan shall be punished with imprisonment for a term which may not exceed five years or with fine or with both. If the offence which such organization commits is Haraba, robbery or any offence relating to intimidating the Public Authority, he shall be punished with imprisonment for a term which may not exceed ten years and shall also be liable to fine.

66 Propagation of False News

Whoever circulates, propagates any news, rumour or report which he knows to be false with intent to cause fear or alarm to the public or threat to public peace or undermine the respect of the State shall be punished with imprisonment for a term which may not exceed six months or with fine or with both.

CHAPTER VIII OFFENCES RELATING TO PUBLIC TRANQUILLITY

67 Disturbance

A person shall be said to commit the offence of disturbance if he joins in any crowd of five persons or more if the crowd shows force or uses force or terrorism or violence and when the common intention is to achieve any of the following objects:

- (a) To resist the execution of provisions of any law or any legal process.
- (b) To commit the offence of mischief or criminal trespass or any other offence.
- (c) To exercise any right or claimed right in a way that may lead to a breach of public peace.
- (d) To compel a person to do what he is not legally bound to do or to omit to do what he is lawfully entitled to do.

68 Punishment of Disturbance

Any person who commits the offence of disturbance shall be punished with imprisonment for a term not exceeding six months or with fine or with flogging which may not exceed twenty lashes. If he is carrying a weapon or any instrument which may cause death or grievous harm he shall be punished with imprisonment for a term not exceeding one year or with fine or with both.

69 Breach of Public Peace

Any person who breaches public peace or commits an act with the intent or may likely cause breach of public peace or public tranquillity and this takes place in a public place shall be punished with imprisonment for a term not exceeding one Month or with fine or with flogging not exceeding twenty lashes.

CHAPTER IX OFFENCES AFFECTING SAFETY AND PUBLIC HEALTH

Part I

Acts Which Endangers Life and Property

70 Pollution of Reservoirs

(1) Any person who endangers the life of people or their safety by putting a poisonous or harmful material in a well or a water tank, or any public reservoir shall be punished with imprisonment for a term not exceeding three years and he may also be liable to fine.

(2) Any person who impairs or pollutes air or public environment in a way which may harm the health of persons or animals or plants shall be punished with imprisonment for a term not exceeding three years or fine or both. If the act is likely to endanger the lives of people the penalty shall be imprisonment for a term not exceeding three years and he may also be liable to fine.

(3) Any person who impairs or pollutes the Sudanese territorial waters or high seas next to the Sudanese territorial waters shall be punished with imprisonment for a term not exceeding five years or with fine or with both.

72 Exposing Ways and Means of Transport to Danger

Any person who endangers any ways of public transport or its land, sea or Air medium or obstructs its running in any way or causes the breakdown of any means of public communications shall be punished with imprisonment for a term not exceeding three years and he may also be liable to fine.

73 Stopping of Work Causing Danger to Life or Damage to the Public

Any person engaged in any work connected to public health or public safety or with any service of public utility ceases from such work in a way that is likely to cause danger to lives or damages or loss or severe public inconvenience shall be punished with imprisonment for a term not exceeding three years or with fine or both.

74 Negligence Causing Danger to Person or Properties

Any person who does any act in a manner so negligent as to endanger human life or to be likely to cause harm or injury to any person or property or omits to take the necessary measures to protect others from the danger of any human or animal or machine or material under his control or in his possession shall be punished with imprisonment for a term not exceeding six months or with fine or with both.

75 Omission to Render Necessary Assistance

Any person having it in his power to assist any person injured or unconscious or in peril of his life and intentionally omits to render such assistance as is possible without exposing himself or others to danger shall be punished with imprisonment for a term not exceeding three months or with fine or with both.

76 Breach of a Legal Obligation to a Helpless Person

Any person who is being bound by a lawful contract to attend on or care for any helpless person by reasons of his youth or the unsoundness of his mental or psychological faculties or illness or physical weakness and voluntarily omits to do so shall be punished with imprisonment for a term

not exceeding six months or with fine or with both.

Part II

Public Nuisance, Drinking Alcohol and Gambling

77 Public Nuisance

(1) A person is said to commit the offence of public nuisance if he commits an act which is likely to cause public damage or danger or inconvenience to the public or those living or working in a neighbouring place or to those who exercise a public right.

(2) The court may issue an order to the offender to stop the nuisance and not to repeat it if it thinks fit and may also sentence him to imprisonment for a term not exceeding three months or with fine or with both.

78 Drinking Alcohol and Nuisance

(1) Whoever drinks, possesses or manufactures alcohol shall be punished with flogging forty lashes if he is a Moslem.

(2) Without prejudice to the provisions of subsection n (1) any person who drinks alcohol and incenses the feelings of others discommodes or annoys them or drinks in a public place or attend a public place being drunk shall be punished with imprisonment for a term not exceeding one month and flogging not exceeding forty lashes and he may also be liable to fine.

79 Dealing in Alcohol

Whoever deals in alcohol by way of selling, buying, making, storing, transporting or possessing with the intention of dealing in it with others or offers it or mixes it in any food or drink or a material used by the public or publicises it or promotes it in any way shall be punished with imprisonment for a term not exceeding one year and he may also be liable to fine. In all cases the alcohol the subject-matter of the dealing shall be destroyed.

80 Gambling or Running a Gambling Place

(1) Whoever gambles or runs any game or activity involving gambling or runs a house or a place for this purpose or abets the same shall be punished with imprisonment for a term not exceeding one year or with fine or with flogging not exceeding twenty five lashes and the house or place may be closed or confiscated if owned by the offender or used with the knowledge of the owner.

(2) Gambling includes lotteries and all games of chance.

81 Persistent offenders

Any person who commits for the third time any of the offences provided in section. 78, 79 and 80 shall be punished with imprisonment for a term not exceeding three years or with flogging not exceeding eighty lashes or with both, and with the confiscation of the means of transport and the instruments used in committing the offence, if any was the property of the offender or used with the knowledge of the owner.

Part III

Food, Drinks and Medicines

82 Sale of Noxious Food

Whoever intentionally sells or offers any article of food or drink which is harmful to the health or unsuitable for eating or drinking. shall be punished with imprisonment for a term not exceeding one year or with fine or with both.

83 Adulteration of Food and Dealing in the Same

(1) Whoever adulterates any kind of food or drink by substructing part of it or adding something to it so as to affect injuriously its quality, substance or nature in any way with intent to sell it as or offers for sale or exposes an adulterated article of food or drink dishonestly shall be punished with imprisonment for a term not exceeding three months or with fine or with both.

(2) Whoever knowingly sells an article of food or drink which is not to the nature, substance or quality demanded by the purchaser of the article which the seller represents it to be shall be punished with imprisonment for a term not exceeding one month or with fine or with both.

84 Adulteration of Medicine and Dealing in the Same

(1) Whoever adulterates any drug or medical preparation in such manner as to lessen its efficacy or changes its effect or make it noxious intending to sell it as safe or dishonest sells or offers any drug with such description shall be punished with imprisonment for a term not exceeding two years or with fine or with both.

(2) Whoever dishonestly sells or offers for sale or offers or issues for dispensary for medical purposes a medical preparation different than the required drug or preparation or the validity of which has expired shall be punished with imprisonment for a term not exceeding one year or with fine or with both.

85 Sale of (Meita) Carcass (Carrion)

(1) Whoever sells or offers for sale the meat of a carcass knowing that it shall be consumed by human beings shall be punished with imprisonment for a term not exceeding one year or with fine or with both.

(2) Carcass means the carcass of a wild animal whether it was killed or slaughtered in an unlawful manner.

86 Offer of Forbidden Food or Drink

Whoever offers another food or drink knowing that it is forbidden in his religion or the religion of such other persons or offers to the public any food for humans knowing that it is forbidden in his religion or the religion of some other persons without pointing out this to the person or the public shall be punished with imprisonment for a term not exceeding six months or with fine or with b both.

Part IV

Cruelty to Animals

(1) Whoever treats with visible cruelty, tortures, intentionally overrides an animal, overloads it or overdrives any animal which by reasons of age, sickness or neglects such animal shall be punished with fine.

(2) The Court may on conviction order that the animal may be kept temporarily in the care of an authorised body and it may also order the offender or the owner of such animal to pay a suitable sum for the care and the treatment of the animal. The court may also order that the animal may also be put down whenever that is necessary.

CHAPTER X OFFENCES RELATING TO PUBLIC SERVANT

Refusal of Delivery of a Document or Submission of Statement

88 Bribery (Gratification)

(1) A person is said to commit the offence of bribery in the following cases:

(a) Any person who gives a public servant or an employee or an agent of another person or offers to him any reward of any kind to induce him to do any service in which he has an interest or may inflict any damage to another person in breach of such public servant's job or gives any gift or advantage in circumstances in which the influence on the public servant or employee or agent is a probable result.

(b) A public servant or employee or agent who accepts or requests for himself or another person any reward in the manner provided in paragraph (1)

(c) Any person who endeavours to give any reward in the manner provided in paragraphs (1) and (2) or accepts it or assists in that.

(d) Any person who benefits from any reward or service or benefit knowing that this was obtained in the manner provided in this section.

(2) Any person who commits the offence of bribery shall be punished with imprisonment for a term not exceeding two years and may also liable to fine and in all cases any property as a result of the crime shall be confiscated.

89 Public Servant Who Disobeys Direction of Law With the Intent to Cause Injury or Protection

Any public servant who disobeys the direction of the law regarding the mandating manner of the performance of his duties as a public servant or refuses to do any of the duties of his office with the intent:

(a) To cause injury to any person or to the public or give any wrongful benefit in any person Or

(b) To protect any person from any legal penalty or lighten or delay its application Or:

(c) To protect any property from confiscation, attachment or any restriction imposed by law or delay any of these procedures shall be punished with imprisonment for a term not exceeding two years or with fine or with both.

90 Public Servant Who Abuses his Authority to Commit to Trial or Arrest

Any public servant authorised by law the authority to commit any person to trial or arrest or

detention carries out any of these acts knowing that it is illegal shall be punished with imprisonment for a term not exceeding three years and he may also be liable with fine.

91 Public Servant Intentionally Omitting to Arrest or Aiding Escape

Any public servant whose duty is to arrest anybody or keep him in custody or detention or guard him and wilfully or negligently omits to arrest or wilfully or negligently allows his escape or aids in such escape or negligently causes his escape shall be punished according to the following:

(a) If the person is sentenced to a death penalty the offender shall be punished with imprisonment for a term not exceeding seven years and he may also be liable to fine.

(b) If the person is sentenced to any other penalty or still an accused or may be arrested for any other offence the offender shall be punished with imprisonment for a term not exceeding five years or with fine or with both.

92 Public Servant Unlawfully Buying or Bidding for Property

Any public servant who buys for himself or through the mediation of another any property under the jurisdiction of his public office or sells the same to a relative or partner or bids in a tender for work connected with his office shall be punished with imprisonment for a term not exceeding two years or with fine or with both.

93 Impersonation of a Public Servant

Any person who dishonestly impersonates a public servant or alleges or pretends that he is one or is dressed shall be punished with imprisonment for a term not exceeding two years or with fine or with both.

94 Failure to Attend Following an Order by a Public Servant

Any person required by a summons or notice or order or public announcement issued by a competent public servant to appear in person or by an attorney at a certain time and place and refuses or knowingly abstains or without any reasonable excuse does not appear at the fixed time and place or leaves that place before the time fixed in which he is allowed to leave shall be punished with imprisonment for a term not exceeding one month or with fine or with both.

95 Stopping or removal of Summons

Any person who knowingly prevents the execution of a summons or notice or order or public announcement issued by a competent public servant or obstructs the execution of the same or removes it shall be punished with imprisonment for a term not exceeding one month or with fine or with both.

96 Refusal to Deliver a Document or Submit a Statement

Whoever is legally bound to deliver any document or anything or to give any statement or information to a public Servant and knowingly refuses such delivery or submission in the proper manner shall be punished with imprisonment for a term not exceeding six months or with fine or with both.

97 Making a False Statement

Whoever makes a statement to a public servant knowing that it is false with the intent to mislead that public servant or to induce him to act in a certain manner shall be punished with imprisonment for a term not exceeding one year or with fine or with both.

98 Answering Questions or Signing Statement

Whoever required by a competent public servant to answer questions which he is bound by law to answer or to sign his statements and refuses to do shall be punished with imprisonment for a term not exceeding one month or with fine or with both.

99 Obstruction of Public Servant During the Course of His Duty

Whoever obstructs a public servant or attacks him or uses criminal force to stop him from carrying out his duties or because of his performance of such duties shall be punished with imprisonment for a term not exceeding six months or with fine or with both.

100 Omission to Assist a Public Servant

Whoever is legally bound to render assistance to a public servant in the execution of his public duties intentionally omits to do so shall be punished with imprisonment for a term not exceeding one month or with fine or with both.

101 Contravention of Residence Order

Whoever is ordered by a competent civil servant to reside in a certain area or prohibited from residing in a certain area and knowingly disobeys such order shall be punished with imprisonment for a term not exceeding one month or with fine or with both.

102 Contravention of an Order of a Public Servant Regarding Property

Whoever contravenes any order to take a certain action regarding a property in his possession or under his administration knowing that the order is given by a competent public servant shall be punished with imprisonment for a term not exceeding six months or with fine or with both.

103 Threat to a Public Servant

Whoever threatens a public servant with harm to induce such public servant to do an act relating to his job or to forebear or delay to do any act shall be punished with imprisonment for a term not exceeding one year or with fine or with both.

CHAPTER XI

OFFENCES RELATING TO THE ADMINISTRATION OF JUSTICE

104 Perjury and Fabrication of False Evidence

(1) Whoever commits perjury by knowingly giving false statements or conceals when giving testimony all or part of the facts of the case in a manner that affects the judgement or fabricates false evidence or submits the same knowing its falsehood with the intent to affect the judgement shall be punished with imprisonment for a term not exceeding five years or with fine or with both.

(2) If the perjury or fabrication of evidence leads to the execution of the judgement against the person attested against, the offender shall be punished with the penalty fixed for the offence for which the execution took place.

(3) Fabrication of evidence includes the preparation of a document containing false statements or different from the truth or signing it or creating circumstances or untrue state of facts.

105 Using Evidence Known to be False

Whoever uses false evidence, or evidence based on perjury as true knowing it to be false shall be punished as if he committed perjury or fabricated evidence.

106 Destruction or Hiding of Evidence

Whoever hides or destroys a document or any material evidence with the intent to prevent its submission or use as evidence before a court or any legal proceedings before a public servant shall be punished with imprisonment for a term not exceeding three years or with fine or with both.

107 Screening and Harbours Offender

Whoever makes statements in connection with an offence knowing that it is untrue or hides information or details of the commission of an offence knowing that an offence is committed or harbours or hides any person knowing that he is the offender with the intention of protection from the legal penalty or prevents his arrest shall be punished with imprisonment for a term not exceeding five years or with fine or with both.

108 Receiving a Reward for Screening Offender from Punishment

(1) Whoever accepts to give others any property or reward to cover an offence or protect any person from legally questioned for any offence or inflicting a penalty upon him servant shall be punished with imprisonment for a term not exceeding three years or with fine or with both.

(2) Provisions of Subsection (1) shall not apply to persons who have the right of pardon or reconciliation with the exception of offences punishable with Qisas or Diyah

109 Resistance or Obstruction to Arrest or Escape

Whoever resists the lawful arrest of any person or wilfully obstructs such arrest in a unlawful manner or intentionally releases or attempts to release any Person from detention or custody in which he is lawfully kept shall be punished with imprisonment for a term not exceeding seven years or with fine or with both

110 Resistance or Obstruction by a Person to his Lawful Arrest or Escape

(1) Whoever resists lawful arrest or obstruct arrest intentionally with unlawful means shall be punished with imprisonment for a term not exceeding one year or with fine or with both.

(2) Whoever escapes or attempts to escape from lawful custody shall be punished with imprisonment for a term not exceeding two years or with fine or with both.

111 Disposal of Property by Fraud to Avoid Attachment or Execution

(1) Whoever fraudulently disposes of any property or right attached to that property or hides it or gives it up or disposes of it with the intent to obstruct the attachment of such property or right or stops taking it in execution of a judgement or order which has been made or he knows it is likely to be made by a court of justice or competent public authority. Or

(2) Accepts any property or right attached to it or receives it or claims it knowing that he has no interest in it with the intention to stop the said attachment or execution shall be punished with imprisonment for a term not exceeding one year or with fine or with both.

112 Claims to Protect a Debtor or Deprive Creditors

(1) Whoever accepts to make a judgement or order or execution or causes it to be made based on a fictitious claim by any person regarding any property or right in the property with the intention to deprive his creditors from collecting their rights in the said property by lawful means: or

(2) Obtains a judgement or order or execution against any person based on a fictitious claim with the intention to protect the debtor or deprive the creditors from collecting their rights in the said property by lawful means shall be punished with imprisonment for a term not exceeding one year or with fine or with both.

113 Impersonation

Whoever impersonates another and makes a declaration or statement or causes any legal action to be taken or becomes a surety or guarantor or do any other act in a civil or criminal case shall be punished with imprisonment for a term not exceeding three years or with fine or with both.

114 False Accusation

Whoever takes any criminal action against any person or causes it to be taken or accuses such person falsely with committing an offence with the intention to cause harm to him knowing that there is no reasonable or lawful basis to that action or accusation shall be punished with imprisonment for a term not exceeding three years or with fine or with both.

115 Influence on the Course of Justice

(1) Whoever intentionally takes any act which may influence the course of justice in any judicial or legal proceedings relating to it shall be punished with imprisonment for a term not exceeding three months or with fine or with both.

(2) Any person of public authority who induces or threatens or tortures any witness or accused or opponent in order to give or abstain from giving information in any case shall be punished with imprisonment for a term not exceeding three months or with fine or with both.

116 Insult of Public Servant During Judicial Proceedings

Whoever intentionally insults a public servant during performing judicial proceedings shall be punished with imprisonment for a term not exceeding three months or with fine or with both.

CHAPTER XII OFFENCES OF COUNTERFEIT COIN AND NOTES

117 Currency Counterfeit

Whoever makes without lawful authority or counterfeit any coin or notes currency in circulation in Sudan or any other country with the intent to deal in it or knowing that the currency is a counterfeit brings it into Sudan or takes it out or offers it for circulation or possesses it, with the intent to deal in it shall be punished with imprisonment for a term not exceeding seven years and he may also be liable to fine.

118 Counterfeit Revenue Stamps

Whoever makes without lawful authority or counterfeits stamps duties or stamps or any other, revenue stamps with the intent to deal in or knowingly brings into Sudan or offers for circulation or keeps in possession with the intent of dealing in or dishonestly uses stamps known to be used shall be punished with imprisonment for a term not exceeding five years or with fine or with both.

119 Making or Possessing Counterfeit Instruments

Whoever makes any instruments or material or possesses or deals in the same in any manner with the intent to use it in any unpermitted industry or to counterfeit currency or revenue stamps shall be punished with imprisonment for a term not exceeding five years or with fine or with both.

120 Making or Counterfeiting Stamps and Official Marks

Whoever makes a counterfeit or possesses any official emblem, sign or stamp of the state with the intent to commit forgery shall be punished with imprisonment for a term not exceeding five years and may also be liable to fine.

121 Dealing in False Units of Weight, Measure or Scale

Whoever makes any scale or any false unit of weight, measure or scale or possesses or uses or deals in the same in any manner knowing that it is false shall be punished with imprisonment for a term not exceeding one year or with fine or with both.

122 Documents Forgery

A person is said to commits forgery of documents who with the intent of committing fraud fakes a document or imitates or hides or destroys in part or makes major changes in the same with the intent to use it to have legal effect.

123 Punishment of Forgery

Whoever commits the offence of forgery of documents or uses or delivers to another person a forged document with the intent to use knowing that the document is forged shall be punished with imprisonment for a term not exceeding five years and he may also be liable to fine. If this is committed by a public servant in the course of his duties he shall be punished with imprisonment for a term not exceeding seven years and he may also be liable to fine.

124 Perverting Documents by a Public Servant

Any public servant or any person charged with a public service who knowingly at the time of drawing a document records untrue facts or fails to record true facts shall be punished with imprisonment for a term not exceeding seven years and he shall also be liable to fine.

CHAPTER XIII OFFENCES AGAINST RELIGION

125 Insulting Religious Believers

Whoever by any means publicly abuses or insults any religion or its beliefs or sacred symbols or seeks to excite contempt or scorn against its followers shall be punished with imprisonment for a term which may not exceed six months or with fine or with flogging which may not exceed forty lashes.

126 Riddah (Apostasy)

- (1) Whoever propagates the renunciation of Islam or publicly renounces it by explicit words or an act of definitive indication is said to commit the offence of Riddah (apostasy).
- (2) Whoever commits apostasy shall be asked to repent within a period decided by the court and if he insisted on his apostasy and was not a new convert he shall be punished with death.
- (3) Punishment for apostasy lapses if the apostate refrained from apostasy before the execution.

127 Defiling or Disturbing a Place of Worship

Whoever destroys or defiles a place of worship or any object held sacred by any class of persons or causes disturbance or objects to a religious meeting without lawful excuse intending by such acts to insult such religion or class of persons shall be punished with imprisonment for a term which may not exceed one year or with fine or with both.

128 Committing Trespass on Dead and Burial Places

Whoever commits trespass on any burial place or exhumes any tomb or offers any indignity to any human corpse without a lawful excuse or intentionally causes disturbance to any persons assembled for the performance of funeral ceremonies, shall be punished with imprisonment for a term which may not exceed one year or with fine or with both.

CHAPTER XIV OFFENCES AFFECTING HUMAN BODY AND LIFE

129 Types of Murder (Homicide)

Murder is causing the death of a living human being intentionally or Quasi-intentionally or culpably.

130 Murder

(1) Homicide is intentional murder if the doer intended it or intended the act and death was a probable consequence of the act.

(2) Whoever commits murder shall be punished with death by Qisas (retribution). If the Qisas lapses, he shall be punished with imprisonment for a term not exceeding ten years without prejudice as to the right of Diah (blood money).

131 Homicide

Homicide is quasi intentional murder if the doer caused it by an offence on the body of a human being where the doer did not intend death and death was not a probable consequence of the act. Notwithstanding the provisions of section 130 (1) homicide is quasi intentional murder in the following cases:

(a) If the public servant or the person commissioned to carry out a public service in good faith exceeds his lawfully authorised power believing that his act which caused death was necessary to perform his duty,

(b) If the doer caused death exceeding in good faith the right of private defence according to the law.

(c) If the doer caused death under duress under threat of death.

(d) If the doer caused death in case of necessity in order to defend himself or another person against death.

(e) If the doer caused death with the victim's consent,

(f) If the offender whilst deprived of the power of self-control by grave and sudden provocation causes the death of the person who gave the provocation or causes the death of any other person by mistake.

(g) If the offender exceeded his lawful authority and thereby caused death.

(h) If the offender committed homicide without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender having taken undue advantage or acted in a cruel or unusual manner.

(i) if the offender at the time of committing the act was under the influence of mental abnormality or disease of the mind that substantially affects his ability to direct or control his acts.

(3) Whoever commits quasi intentional murder shall be punished with imprisonment for a term not exceeding seven years without prejudice as to the right of Diah.

132 Culpable Unintentional Homicide

(1) Homicide is culpable homicide if it is not murder or quasi intentional murder and the offender caused it by negligence, want of due care or an unlawful act.

(2) Whoever commits culpable homicide shall be punished with imprisonment for a term not exceeding three years without prejudice to the right of Diah.

133 Attempt to Commit Suicide

Whoever attempts to commit suicide and does any act towards the commission of such offence shall be punished with imprisonment for a term which may not exceed one year or with fine or with both.

134 Abetment of Suicide of Child or Insane Person

If any minor, any insane person any person in a state of intoxication or any person under the influence of mental disorder commits suicide, whoever abets the commission of such suicide shall be punished with imprisonment for a term not exceeding one year and if the suicide is committed as a consequence of such abetment the offender shall be punished with the punishment prescribed for murder.

135 Miscarriage

(1) Whoever voluntarily causes a woman with a child to miscarry is said to commit the offence of causing miscarriage unless such causing of miscarriage was in the following cases:

(a) Miscarriage is necessary for the purpose of saving the life of the woman.

(b) Pregnancy was as a result of rape and did not amount to ninety days and the mother wishes to have miscarriage.

(c) If the foetus was dead.

(2) Whoever commits the offence of causing miscarriage shall be punished with imprisonment for a term not exceeding three years or with fine or with both without prejudice to the right of Diyah.

136 Causing Miscarriage

Whoever with the intent to cause the miscarriage of a woman with a child does any act which causes such miscarriage shall be punished with imprisonment for a term not exceeding one year or with fine or with both without prejudice to the right of Diyah.

137 Causing Death of Unborn Child

Whoever before the birth of any child does any act with the intention of thereby preventing that child from being born alive or causing it to die after its birth and does by such act prevent such child from being born alive or causes it to die after its birth shall if such act be not caused for the purpose of saving the life of the mother, or in order to protect her from grievous harm shall be punished with imprisonment for a term not exceeding two years or with fine or with both without prejudice to the right of Diyah.

138 Types of Injury

(1) Whoever causes any person to lose a limb or the function of the mind or a sense, an injury or a breakage in his body is said to have caused injury.

(2) Injuries are: intentional, or Quasi-intentional or culpable and the distinction used for the three types of homicide shall apply to the distinctions of the said types of injury.

139 Punishment for Causing Injury Intentionally

(1) Whoever commits the offence of causing injury intentionally shall be punished by way of Qisas if its conditions are satisfied but if Qisas lapses or its conditions were not satisfied the offender shall be punished with imprisonment for a term not exceeding three years or with fine or with both without prejudice to the right of Diah.

(2) Whoever commits the offence of causing injury intentionally in the Southern provinces shall be punished with imprisonment for a term not exceeding five years or with fine or with both without prejudice to the right of Diah.

140 Punishment for Quasi Intentional Causing of Injury

Whoever commits Quasi intentional causing of injury shall be punished with imprisonment for a term not exceeding three years or with fine or with both without prejudice to the right of Diah.

141 Punishment for Unintentional Injury

Whoever commits the offence of unintentional injury shall be punished with imprisonment for a term not exceeding one year or with fine or with both without prejudice to the right of Diah.

142 Hurt

(1) Whoever causes bodily pain or disease to any person is said to cause hurt and shall be punished with imprisonment for a term not exceeding six months or with fine or with both.

(2) If hurt is caused by any dangerous means such as by administering any poison or any stupefying intoxicating drug or hurt was caused with the intent of extorting confession or compelling any person to do an unlawful act the offender shall be punished with imprisonment for a term not exceeding two years and shall also be liable to fine.

143 Criminal Force

Whoever intentionally uses force to any person without that person's consent in order to commit any offence or intending by the use of such force to cause injury, fear or annoyance to the person to whom the force is used shall be punished with imprisonment for a term not exceeding one year or with fine or with both.

144 Criminal Intimidation

(a) Whoever threatens another with any injury to himself or to any person in whom he is interested with intent to cause him alarm or to cause him to do any act which he is not legally bound to do or omit to do any act which he is legally entitled to do.

(b) Whoever makes any gesture or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present that to apprehend that the person making it is about to use criminal force to that person, is said to commit criminal intimidation.

(2) Whoever commits criminal intimidation shall be punished with imprisonment for a term not exceeding six months or with fine or with both.

CHAPTER XV

OFFENCES AGAINST HONOUR, REPUTATION AND PUBLIC MORALS

145 Zina (Adultery)

- (1) (a) A man who has sexual intercourse with any woman without lawful relationship.
- (b) A woman allowing any man to have sexual intercourse with her without a lawful relationship is said to commit Zina (Adultery).
- (2) Sexual intercourse is complete when the penis or its equivalent fully penetrates the vagina.
- (3) Void marriage does not constitute lawful relationship.

146 Punishment for Zina

- (1) Whoever commits Zina shall be punished with
 - (a) Execution by stoning if he was MUHASAN (married).
 - (b) Flogging a hundred times if he was not a MUHASAN (Unmarried) .
- (2) The unmarried male may be banished for one year in addition to flogging.
- (3) Ihsan means lawful marriage at the time when Zina is committed provided that the marriage is consummated.
- (4) Whoever commits Zina in the Southern Provinces shall be punished with imprisonment for a term which may not exceed one year or with fine or with both and if the offender was married he shall be punished with imprisonment for a term which may not exceed three years or with fine or with both.

147 Cases Where Punishment for Zina Lapses

Punishment for a Zina shall lapse for two reasons:

- (a) If the offender retracted his admission before the execution of punishment and the offence was proved by admission alone.
- (b) If witnesses retracted their evidence whereby the required number of witnesses becomes insufficient before the execution of punishment.

148 Sodomy

- (1) Any man who inserts his penis or its equivalent into a woman's or a man's anus or permitted another man to insert his penis or its equivalent in his anus is said to have committed Sodomy.
- (2) (a) Whoever commits Sodomy shall be punished with flogging one hundred lashes and he shall also be liable to five years imprisonment.
- (b) If the offender is convicted for the second time he shall be punished with flogging one hundred lashes and imprisonment for a term which may not exceed five years.
- (c) If the offender is convicted for the third time he shall be punished with death or life imprisonment.

149 Rape

- (1) Whoever commits Zina or Sodomy with any person without such person's consent is said to commit rape.
- (2) Consent given to the offender who has guardianship or power over the victim is not a consent within the meaning of this section.
- (3) Whoever commits rape shall be punished with one hundred lashes and with imprisonment which may not exceed ten years unless rape constituted the offence of Zina or Sodomy

punishable with death.

150 Offences of Incest

(1) Whoever commits Zina, Sodomy or rape with one of his ascendants or descendants or their spouses or with his brother or sister or their children or his paternal or maternal uncles and auntie is said to commit the offence of incest.

(2) Whoever commits incest shall be punished with the punishment prescribed for the offence constituted by his act and in cases not punishable with death, shall be punished with an additional punishment of imprisonment for a term which may not exceed five years.

151 Indecent Acts

Whoever commits an act of gross indecency upon the person of another person or any sexual act which does not amount to Zina or Sodomy shall be punished with not more than forty lashes and shall also be liable for imprisonment for a term which may not exceed one year or fine.

152 Obscene and Indecent Acts

(1) Whoever does in a public place an indecent act or an act contrary to public morals or wears an obscene outfit or contrary to public morals or causing an annoyance to public feelings shall be punished with flogging which may not exceed forty lashes or with fine or with both.

(2) The act shall be contrary to public morals if it is regarded as such according to the standard of the person's religion or the custom of the country where the act takes place.

152 Materials and Expositions Contrary to Public Morals

(1) Whoever makes, portrays or possesses any materials contrary to public morals or circulates the same, shall be punished with imprisonment for a term which may not exceed one month or with flogging which may not exceed forty lashes and shall also be liable to fine.

(2) Whoever deals in materials contrary to public morals or runs any exhibition, theatre, cinema or public place and presents material or expositions contrary to public morals or permits presentation of the same shall be punished with flogging which may not exceed sixty lashes or with imprisonment for a term which may not exceed three years or with both.

(3) In all cases the court shall order the destruction of the obscene materials and confiscation of equipment and articles used in its exhibition and the place may also ordered to be closed.

154 Practising Prostitution

(1) Whoever is found in a brothel where it is likely that such person may perform sexual acts or earn money out of the performance of such acts is said to practice prostitution. He shall be punished with flogging which may not exceed one hundred lashes or with imprisonment which may not exceed three years.

(2) A brothel is any place prepared for meetings of women or men or men and women who have no marriage relationship nor related in circumstances where it is likely that sexual practices will take place

155 Running a Brothel

(1) Whoever runs a brothel or rents a place or knowingly permits the same to be used as a brothel shall be punished with flogging which may not exceed one hundred lashes or with imprisonment for a term which may not exceed five years and the said place is also liable to be closed or confiscated.

(2) Whoever is convicted for the second time according to subsection (1) shall be punished with flogging which may not exceed one hundred lashes or with imprisonment for a term which may not exceed ten years and the place shall be confiscated.

(3) If the offender is convicted for the third time he shall be punished with death or with life imprisonment and the place shall be confiscated.

(4) In all cases confiscation shall not be ordered unless the offender was the owner of the place or the owner knew that the place was used for such purpose.

156 Seduction

Whoever seduces a person or allures, incites, takes help in taking, takes away or hires such person to commit Zina, Sodomy, Prostitution. Absence or Indecent acts, shall be punished with flogging which may not exceed one hundred lashes or with imprisonment for a term which may not exceed five years and if the person so seduced is a minor or of an unsound mind or the said acts are intended to be committed outside Sudan, the offender shall be punished with flogging which may not exceed one hundred lashes or with imprisonment for a term which may not exceed seven years.

157 Qadhf (Casting Accusation of In chastity)

(1) Whoever imputes to any honourable living or dead person by express words, implicitly, by writing or indicative signs accusation of Zina or Sodomy or illegitimacy is said to commit Qadhf.

(2) A person is said to be honourable (Chaste) if he has not been convicted for Zina, Sodomy, Rape, Incest or Practising Prostitution.

(3) Whoever commits Qadhf shall be punished with flogging eighty lashes.

158

(1) The penalty of Qadhf shall lapse in any of the following cases:

(a) Reciprocal Qadhf: if it is proved that the victim or complainant has replied to the victim in kind.

(b) If the victim or complainant pardoned the offender before the execution of the penalty.

(c) By reciprocal accusation of adultery between spouses (Liaan).

(d) If the victim is a descendant of the offender.

(2) If the penalty of Qadhf lapses for any of the reasons in subsection (1) the offender may be punished with the prescribed penalty for the offence of defamation.

159 Defamation

(1) A person is said to commit the offence of defamation who publishes, states or conveys to another by any means facts relating to a certain person or an evaluation of his manners with the intent to harm his reputation.

(2) A person shall not be deemed to have the intent to harm reputation in any of the following cases:

- (a) If his act is within the course of any judicial proceedings to the extent it is necessitated or a publication of these proceedings.
 - (b) If he or any other person have a lawful complaint or interest to protect and this cannot be achieved without ascription of the facts or the correction of the specific behaviour.
 - (c) If his act relates to a person nominated to a public office or is in public office and was meant to remedy such person's capacity or performance to the extent needed.
 - (d) If his act is within the context of advice to the person who deals with such person or for public interest.
 - (e) If the ascription of facts is made in good faith to a person who is well known for such acts and is overwhelmed by it or he declares openly.
 - (f) If the correction is for a person who submits himself or his work to the public opinion to judge and the correction is to the extent required by the judgement.
- (3) Any person who commits the offence of defamation shall be punished with imprisonment for a term not exceeding six months or with fine or with both.

160 Wrong and Abuse

Whoever directs wrong or abuse to any person which does not amount to Qadhif or defamation with the intent of insulting him shall be punished with imprisonment for a term not exceeding one month or flogging which may not exceed twenty five lashes or with fine.

CHAPTER XVI

OFFENCES RELATING TO INFRINGEMENT OF PERSONAL FREEDOM

161 Enticement

- (1) Whoever takes or entices any minor or any person of unsound mind out of the keeping of the lawful guardian of such minor or person of unsound mind without the consent of such guardian shall be punished with imprisonment for a term not exceeding seven years and he shall also be liable to fine.
- (2) The provisions of subsection (1) shall not apply to whoever claims custody, guardianship or any lawful authority.

162 Abduction

Whoever by force compels or by any deceitful means induces any person to go from any place with the intent of committing an offence on the person of such person or his freedom shall be punished with imprisonment for a term not exceeding ten years or with fine or with both.

163 Forced Labour

Whoever unlawfully compels any person to labour against the will of that person shall be punished with imprisonment for a term not exceeding one year or with fine or with both.

164 Unlawful Restraint

Whoever wrongfully obstructs any person so as to prevent that person from moving or from proceeding in any direction in which that person has the right to proceed shall be punished with

imprisonment for a term not exceeding three months or with fine or with both.

165 Unlawful Confinement

(1) Whoever wrongfully confines any person in a specific place without lawful reasons or continues to confine such person knowing that an order of release has been issued is said to commit unlawful confinement and shall be punished with imprisonment for a term not exceeding one year or with fine or with both.

(2) If confinement happened in a secret manner or it was with the intent to extort a confession from the person so confined or to compel him to return money or do say unlawful act or if confinement was likely to endanger such person's life the offender shall be punished with imprisonment for a term not exceeding three years and he shall also liable to fine.

166 Violation of Privacy

Whoever violates another's privacy by watching him in his house without his permission or hear him by stealth without lawful excuse or sees his letter or secrets shall be punished with imprisonment for a term not exceeding six months or with fine or with both.

CHAPTER XVII OFFENCES AGAINST PROPERTY

167 Haraba (Highway Robbery)

Whoever threatens the public or troubles the security of the roads by menaces intending to commit an offence against human body, honour or property, provided the act is committed:-

- (a) Out of town, in land, sea or air or in town where help is difficult to get.
- (b) By use of arms or any instrument capable of causing harm or threat to cause such harm is said to commit Haraba.

168 Punishment for Haraba

(1) Whoever commits Haraba shall be punished with: -

- (a) Execution or execution and thereafter crucifixion if his acts resulted in murder or rape.
- (b) Amputation of the right hand and left foot if his act resulted in grievous bodily harm or theft of property which amounts to the required minimum (Nisab) for theft punishable with amputation (Sariqah Hadiya).
- (c) Imprisonment by way of banishment for a term which may not exceed seven years in cases not covered by paragraphs (a) and (b).

(2) Whoever commits Haraba in the Southern Provinces shall be punished with

- (a) Execution if the act resulted in murder.
- (b) Life imprisonment if his act resulted in rape.
- (c) Imprisonment for a term not exceeding ten years if his act resulted in grievous harm or theft of property,
- (d) Imprisonment for a term not exceeding seven years in the cases not covered by paragraphs (a), (b) and (c).

169 Lapse of .Haraba

- (1) Haraba punishment shall lapse if the offender declared his repentance before arrest.
- (2) Lapse of Haraba punishment shall not affect the victim's right or the rights of his next of kin (Awliyaa) in diyah (blood money) or compensation or the return of property.
- (3) If punishment for Haraba lapsed the offender shall be punished with imprisonment for a term not exceeding five years.

170 Al Sariqah Al Hadiyah (Theft Punishable with Amputation)

- (1) Whoever with intent to acquire takes clandestinely (steals) a movable property of a value (Motaqwan) not less than the required (Nisab) and owned by another from its owner's safe possession (Hirz) is said to commit Sariqah Hadiyah.
- (2) Clandestinely includes violating the hirz clandestinely and taking property openly or by force.
- (3) Property owned by another includes public property, Awkaf's property and places of worship.
- (4) Hirz means the place or the manner in which a certain property or it's like is normally or according to custom in the country or certain profession kept. A property is in a hirz whenever it is guarded.
- (5) The Nisab shall be a golden Dinar weighing 4.25 Grammes or it's equivalent in money according to the estimate made from time to time by the Chief Justice after consultation with the competent authorities.
- (6) If the taking (of property) is committed by a group of offenders the Nisab taken into consideration shall be the total property taken and not what is taken by each person.

171 Punishment of Sariqah Hadiyah

- (1) Whoever commits Sariqah Hadiyah shall be punished with amputation of the right hand from the wrist.
- (2) If the offender is convicted for the second time he shall be punished with imprisonment for a term not exceeding seven years.

172 Cases Where Punishment for Sariqah Hadiyah Lapses

The (Hadd) punishment for Sariqah Hadiyah lapses in the following cases:

- (a) If the Sariqah takes place between lineal ascendants and descendants or between spouses or relatives on the maternal side.
- (b) If the offender was in a case of necessity and did not take out of the property more than his need or the need of a person for whose maintenance or treatment he is responsible in excess of the Nisab.
- (c) If the offender had a share or believed in good faith that he had a share in the stolen property and the amount stolen did not exceed such a share and amounted to the Nisab.
- (d) If the offender was a creditor of the person of whom the property was stolen and such person was dilatory or denies the debt and the debt became due and what was taken by the offender was equal to his debt or more but not in excess to the Nisab.
- (e) If the offender before being brought to trial returned back the property claimed to have been stolen and declared his repentance or he became owner to the said property and in addition to that his criminal record was clear of previous charges or convictions in connection with offences against property.
- (f) If the offender retracted his admission before the execution of the punishment and the Sariqah

Hadiyah was proved by admission alone.

(g) If the offender was authorised to enter the Hirz.

(h) If amputation will endanger the offender's life or his left hand was cut or paralysed.

173 Punishment of Sariqah Hadiyah When The Hadd Punishment Lapses

If the Hadd punishment in the Sariqah Hadiyah lapses for any of the reasons mentioned in Section 172 the offender may be punished with imprisonment for a term not exceeding seven years or with fine or with both. He may also be punished with flogging which may not exceed a hundred lashes.

174 Theft

Whoever intending to take dishonestly any movable property out of the possession of any person without that person's consent is said to commit theft.

175 Robbery

(1) Whoever commits theft or Sariqah Hadiyah with the use of criminal force or the threat of using it when attempting the offence or during committing it or during escape is said to commit robbery.

(2) Whoever commit robbery shall be punished with imprisonment for a term not exceeding three years in addition to any other penalty prescribed for whatever resulted from his act.

176 Extortion

(1) Whoever puts in person in fear of any injury to that person or to any and thereby dishonestly induces the person put in fear to deliver to any person any property or documents of title is said to commit extortion.

(2) Whoever commits extortion shall be punished with imprisonment for a term not exceeding 2 years or with fine or with both.

(3) If extortion was committed by putting any person in fear of death or grievous hurt or by kidnapping or by accusing such person with an offence punishable with death the offender shall be punished with imprisonment for a term not exceeding seven years and may also be liable to fine.

177 Criminal Breach of Trust

(1) Whoever being in any manner entrusted with property, or with any dominion over property dishonestly misappropriates or converts to his own use or to the use of another or dishonestly uses or negligently disposes of that property in violation of the terms of any trust is said to commit criminal breach of trust. The offender shall be punished with imprisonment for a term not exceeding seven years and he shall also be liable to fine.

(2) Whoever is being a public servant or an employee of another person and being in any manner entrusted in such capacity with property commits criminal breach of trust in respect of that property shall be punished with imprisonment for a term not exceeding fourteen years and with fine or death.

178 Cheating

(1) Whoever dishonestly deceives any person in any manner and causes a wrongful gain for himself or for another person or causes a wrongful loss to such person or to another is said to commit cheating.

(2) Whoever commits cheating shall be punished with imprisonment for a term not exceeding three years or with fine or with both.

(3) Whoever commits cheating for the third time shall be punished with imprisonment for a term .not exceeding five years and he may also be liable to fine

179 Giving or Endorsement of an Uncovered Cheque

(1) Whoever in fulfilment of an obligation or for a consideration issues to any person a cheque which is dishonoured by the drawer because: -

(a) He has no account with the drawer at the time the cheque is presented; or

(b) He has insufficient funds with the drawer and this fact is known to him; or

(c) He or his agent has countermanded the payment of the cheque without a reasonable cause; or

(d) He has intentionally drawn the cheque in such a manner that the drawee refuses to honour it; is said to commit the offence of giving an uncovered cheque.

(2) Whoever commits the offence of giving an uncovered cheque shall be punished with fine or imprisonment for a term not exceeding five years or with both.

(3) Whoever endorses and delivers a cheque to any person and such cheque is dishonoured by the drawee in the manner described in paragraph (1) knowing the reasons for such dishonouring shall be punished with fine or imprisonment for a term not exceeding three years or with both.

(4) Whoever commits the offence of giving or endorsement of an uncovered cheque shall be punished with imprisonment for a term not exceeding seven years and fine.

180 Criminal Misappropriation

(1) Whoever takes or finds a property belonging to another person or borrows or misappropriates and denies such property or dishonestly disposes of it is said to commit criminal misappropriation.

(2) Whoever commits criminal misappropriation shall be punished with imprisonment for a term not exceeding three years or with fine or with both.

181 Receiving of Stolen Property

(1) Property the possession of which whereof has been transferred by Haraba or by theft, or by extortion or by criminal breach of trust or by cheating or criminal misappropriation is designated as stolen property.

(2) Whoever dishonestly receives or retains any stolen property or assists in concealing or disposing of such property knowing that the same is a stolen property shall be punished with imprisonment for a term not exceeding three years and he may also be liable to fine.

(3) Whoever commits the offence of receiving stolen property for the third time shall be punished with imprisonment for a term not exceeding seven years and may also be liable to fine.

182 Criminal Mischief

(1) Whoever with intent to cause or knowing that he is likely to cause wrongful loss or damage to the public or to any person, causes the destruction of any property or in the situation thereof destroys or diminishes its value or utility or affects it injuriously, commits mischief.

(2) Whoever commits mischief shall be punished with imprisonment for a term not exceeding two years or with fine or with both. If mischief is caused by inundation or by fire or by explosive, incendiary or poisonous substance, he shall be punished with imprisonment for a term not exceeding five years or with fine or with both.

(3) Whoever commits mischief on a public property or public utility shall be punished with imprisonment for a term not exceeding five years and may also be liable to fine.

183 Criminal Trespass

(1) Whoever enters into a movable or an immovable property in possession of another or unlawfully remains there or interferes with such property with intent to intimidate, annoy or deprive such person from his right is said to commit criminal trespass.

(2) Whoever commits criminal trespass shall be punished with imprisonment for a term not exceeding six months or with fine or with both and if the criminal trespass was with intent to commit an offence or by the use of criminal force, he shall be punished with imprisonment for a term not exceeding three years and shall also be liable to fine. If such criminal trespass took place at night or by the use of arms or any instrument capable of causing harm the offender shall be punished with imprisonment for a term not exceeding five years and shall also be liable to fine.

184 Lurking with Criminal Intent

Whoever is caught lurking at night carrying an instrument or tools suitable for committing theft, criminal trespass or use of criminal force, or otherwise is shown to have a criminal intent shall be punished with imprisonment for a term not exceeding one year and shall also be liable to fine.

185 Making an Instrument for a Criminal Purpose

Whoever makes an instrument or imitates any keys, or puts a plan intending that such false key or instrument shall be used for a criminal purpose, shall be punished with imprisonment for a term not exceeding one year or with fine or with both.

FIRST SCHEDULE

Limbs and Injuries Subject to Qisas

(1) The sound eye if it is pulled out completely.

(2) The nose to the (MARIN).

(3) The sound ear irrespective of hearing.

(4) The lip if cut off completely, partial loss is immaterial.

(5) The tooth if it is medically decided that no other tooth will grow in its place.

(6) The tongue if it is completely cut off.

(7) The hand if it is cut at the joint. The victim is entitled to Diyah (blood money) for the part beyond the joint,

(8) The foot, the same rule applicable to hand shall apply.

(9) Fingers and toes if the cut is at a joint.

- (10) The male genitals if cut off completely or the penis is cut off.
(11) The testicles, a testicles for a testicles provided that this does not affect the safety of the other.
(12) The injuries specified are those which reach bones

SECOND SCHEDULE

Diyah (Blood Money)

- (1) Diyah in murder is full.
- (2) Diyah in injury is full in the following cases: -
(a) Cutting of the single organs in the body,
(b) Cutting of two of the pair organs or either of them if this resulted in loss of their function.
(c) All hand's fingers or feet's toes.
(d) Loss of functions of mind, senses and limbs
(e) Total loss of teeth.
- (3) Diyah shall be 1/2 (half) in the following cases : -
(a) Loss of one of the pair organs.
(b) Loss of function of one of the pair organs.
- (4) Diyah in injuries one tenth 1/10 in case of loss of a finger , half tenth 1/20 in case of loss of tip of the thumb and one third of a tenth 1/30 in case of loss of any finger's tip.
- (5) Diyah for injuries in case of loss of a tooth is half tenth 1/20,
- (6) Diyah for injuries in the body is as follows: -
(a) Jaiyfah Diyah which causes injury in the cavity of the chest or the abdomen. 1/3
(b) If the jaiyfah passed through the other side it would be designated as two jaiyfahs and their Diyah is 2/3.
- (7) Diyah in fractures is as follows: -
(a) Amah Diyah which reaches the skull is one third 1/3.
(b) Damighah Diyah which reaches the brain is one third 1/3.
(c) Manqalah Diyah which moves the bones three tenth 3/10.
(d) Hashimah Diyah which fractures the skull or face is one tenth 1/10.
(e) Mowadihah Diyah which shows the bones is half tenth 1/20.
- (8) (1) In case of miscarriage if the child is born alive but died afterwards, the diyah is full.
(2) In case of miscarriage if the child is born dead the (Gorrah) diyah is half tenth.
(3) Diyah shall multiply according to the number of foetus.

Issued under my signature on the Fifteenth day of Rajab 1411 Higri being the Thirty First of January 1991.

Lieutenant General Ahmed Hassan El Basheer

President National Salvation Revolutionary Council.

SPECIAL LEGISLATIVE SUPPLEMENT
TO
THE REPUBLIC OF THE SUDAN NO. 1548
Dated 20th February 1991
Supplement No. 1 - General Legislations
Contents

I-	Acts	Page
	The Penal Code 1991	
	(Act No. 8 1991)	1