

*In His Name,
the Omniscient, the Omnipotent*

ISLAMIC PENAL CODE
THE ISLAMIC REPUBLIC OF IRAN

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با سلام و احترام

غلط گیری انجام شد اگر دیگر مشکلی نیست هایلات ها برداشته و کتاب بسته شود

انتشارات خرسندی - پیدایی

Legal Deputy to the Judiciary of the Islamic Republic of Iran 2016

Preface

The Islamic Penal Code, consisting of 728 articles on the generalities of criminal law and specific aspects of Islamic penal law, exempli gratia fixed corporal punishments, **talion** and wergild, was passed in April 2013 by the Islamic Consultative Assembly of the Islamic Republic of Iran. These articles embody the judicial experience and precedents as well as legal and jurisprudential doctrines and studies.

The following are, inter alia, the achievements and accomplishments of this Code: the gradual responsibility of the juvenile, provision of suitable correctional, restorative and criminal responses to the juvenile, the criminal responsibility of legal persons, principle of the applicability of the victims' nationality jurisdiction, regulation of the complementary punishments, drawing the attention of the judges towards the personality file (a file containing the social, economic and family status of the accused as well as his or her medical and psychiatric **stati**), taking advantage of decriminalization strategies, penalty substitutions, and reduction of penalties and **criminalism**.

The idea of the translation of this code was raised by the Secretary General to the High Council for Human Rights and this version is a certified one done by Dr. Mohsen Mir Mohammad Sadeghi (Certified

Translator to the Judiciary) under the auspices of the Legal Deputy to IRI Judiciary. It is aimed to be used by non-Persian language speakers and in international conferences as well. HE Dr. Seyed Ali Kazemi has supervised the translation and the last revision has been done by Vahid Hedayati. I shall hereby thank them all for their contributions.

Dr. Zabihollah Khodaeen

Legal Deputy to Judiciary

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BOOK ONE: GENERALITIES
PART ONE: GENERAL PROVISIONS

Chapter One- Definitions

Article 1

The Islamic Penal Code encompasses offenses and penalties of fixed corporal punishments, **talion**, wergild, discretionary punishments, and security and corrective measures; as well as criminal liability; requisite elements of and barriers to criminal liability; and provisions governing them.

Article 2

Every conduct whether act or omission for which punishment is prescribed in law is considered an offense.

Chapter Two- Domain of Application of Criminal Laws in terms of Territory

Article 3

Criminal laws of Iran apply to all persons committing offenses within the land, maritime and air territorial jurisdiction of the Islamic Republic of Iran, save where otherwise is provided in law.

Article 4

Where an offense in part or the result thereof is perpetrated within the Iranian territorial jurisdiction it shall be tantamount to an offense committed in the Islamic Republic of Iran.

Article 5

Every Iranian or non-Iranian person who commits one of the following offenses or the offenses laid down in specific laws will be tried and punished in accordance with the laws of the Islamic Republic of Iran. Where prosecution of these offenses outside Iran results in issuance of conviction sentence and enforcement thereof, the Iranian court will take into account the extent of sentence enforced, when determining discretionary punishments:

- a) Acting against the system, internal or external security, territorial integrity or independence of the Islamic Republic of Iran;
- b) Forging the seal, signature, decree, command or manuscript of the Leader, or using the forged;
- c) Forging the seal, signature, decree, command or official manuscript of the president, the Judiciary Chief, the speaker and representatives of the Parliament, Assembly of Experts for Leadership, the President of the Supreme Court, the Attorney General, Members of Guardian Council, the President and Members of Expediency Discernment Council of the System, ministers or vice presidents, or using the forged;
- d) Forging judgments issued by judicial authorities or writs of execution issued by those authorities, or using the forged;
- e) Counterfeiting money notes in use or liability-creating instruments of Iran; as well as counterfeiting public treasury documents and bonds issued or guaranteed by the Government; or producing or as to domestic coins in use, disseminating counterfeit coins.

Article 6

Offenses committed by Government employees, whether Iranian or non-Iranian outside the Iranian territory, in relation to their jobs and functions, and offenses of diplomatic and consular officers and other persons affiliated to the Iranian Government who enjoy political immunity may be prosecuted in accordance with the laws of the Islamic Republic of Iran.

Article 7

In addition to the instances pointed out in the preceding Articles, every Iranian national who had committed an offense outside the country, if found in or repatriated to Iran, will be tried and punished in accordance with the laws of the Islamic Republic of Iran, provided that:

- a) The conduct committed is criminalized under the laws of the Islamic Republic of Iran.
- b) Where in case the offense committed is among the offenses for which discretionary punishment is prescribed, the accused has not been tried and acquitted or in case of conviction, the punishment has not been enforced against her/him, wholly or partly, in the *locus delicti commissi*.
- c) There is no ground under the Iranian law for issuance of an order of non suit, *nolle prosequi*, stay of execution or cease of enforcement.

Article 8

Where a non-Iranian person who has committed an offense other than those mentioned in the preceding Articles against an Iranian Person or the State of Iran is found in and/or repatriated to Iran, she/he will be prosecuted for her/his offense, provided that:

-
- a) In case of the offenses punishable by discretionary punishment, the accused has not been tried and acquitted or in case of conviction, the punishment has not been enforced against her/him, wholly or partly, in the *locus delicti commissi*.
 - b) The conduct committed is criminalized under the laws of the Islamic Republic of Iran and the *lex loci delicti commissi*.

Article 9

The perpetrator of the offenses that pursuant to special laws or treaties and international regulations is to be tried in any country where he or she is found shall be tried and punished in accordance with the penal laws of the Islamic Republic of Iran, if she/he is found in Iran.

Chapter Three: Domain of Temporal Application of Penal Laws

Article 10

Under governmental regulations and orders, punishment and security and corrective measures shall be pursuant to the law enacted prior to commitment of the offense; and the perpetrator of any conduct, whether action or omission, may not be convicted to a punishment or to security and corrective measures enacted subsequently. However, where after commitment of an offense a law is adopted regarding mitigation of or non-execution of punishment or security and corrective measures or where such law is more favorable to the perpetrator in certain respects, it shall have effect retrospectively in respect of the offenses committed prior to enactment thereof, so long as the final judgment has not been issued. Where a final binding

judgment has been rendered pursuant to the former law, action will be taken as follows:

- a. Where the conduct criminalized in the past no longer constitutes an offense, the binding judgment will not be enforced, and in case it is being executed, the execution will be ceased. In those instances as well as where the judgment has already been executed, it will not create any criminal record.
- b. Where punishment has been reduced by the subsequent law, the judgment enforcement judge shall be required to apply to the judgment issuing court for correction of the judgment in order to accord with the new law, before initiation of enforcement or in the course of execution. The convict may also apply to the judgment issuing court for commutation of the penalty. The judgment issuing court will commute the previous penalty in compliance with the subsequent law. The provisions of this paragraph concerning security and corrective measures also apply to security and corrective measures executed in respect of juvenile delinquents. In that case, the father and natural guardian or custodian of the minor may also apply for commutation of security and corrective measures.

Note

The preceding provisions do not apply to the laws enacted for a specific period and/or special cases, save where otherwise is expressly stated in the subsequent law.

Article 11

The following laws will forthwith apply retrospectively to offenses committed before enactment of the law:

- a. The laws pertaining to judicial organization and jurisdiction;

- b. The laws on evidence, so long as the judgment has not been enforced;
- c. Procedural laws;
- d. Statute of limitations.

Note

As to the item b., where a final judgment has been issued, the case will be remanded to the final judgment issuing court for consideration.

Chapter Four: Legality of Offenses and Punishments and Criminal Litigation

Article 12

Sentencing to a punishment or to security and corrective measures and enforcement thereof shall be through a competent court, in accordance with the law and by observance of the conditions and modalities laid down therein.

Article 13

Sentencing to a punishment or to security and corrective measures and execution thereof shall not exceed the extent and the modality laid down in law or in a court judgment. And, any type of injury and damage resulting from exceeding as such, should they be inflicted with *mens rea* or by fault, as the case might be, will engender criminal and civil liability. Otherwise, the damage will be indemnified by public funds.

PART TWO: PUNISHMENTS

Chapter One: Principal Penalties

Article 14

Punishments laid down in this law are of four types:

- a. Fixed Corporal Punishment
- b. Talion
- c. Wergild
- d. Discretionary Punishment

Note:

Wergild and damages may be sought, where causal relationship is established between the conduct of a legal entity and the damage sustained. Discretionary punishment shall be inflicted on legal entities in accordance with Article 20.

Article 15

Fixed Corporal Punishment is a type of punishment the circumstances requiring its infliction, type, extent and modality of infliction thereof are laid down in the Holy Religion.

Article 16

Talion is the principal punishment for premeditated offenses against life, organs of the human body and uses thereof, which will be inflicted in the manner set forth in Book Three of this law.

Article 17

Wergild, whether quantified or **unquantified**, is a property that as prescribed by Sharia shall be paid under the law for committing unintentional offenses against life, members of the human body and uses thereof and/or for premeditated offenses that on any ground have no talion punishment.

Article 18

Discretionary punishment is a punishment, which does not fall under the titles of Fixed Corporal Punishment, Talion or Wergild, and which will be determined by law in the instances of committing religiously forbidden acts or violating Government regulations. The type, amount, modality of execution and mitigation, suspension, and nullification regulations thereof and other provisions on Discretionary punishment will be ordained by law. Observing provisions of the law, the court will take the following into consideration in issuing a discretionary punishment sentence:

- a. The perpetrator's motive and her/his mental and psychological condition at the time of committing the offense;
- b. Manner of committing the offense, extent of breach of duty, and harmful consequences thereof;
- c. Measures taken by the perpetrator after committing the offense;
- d. The perpetrator's individual, family and social records and status, and the impact of Discretionary punishment on her/him.

Article 19

Discretionary punishments are classified into eight degrees:

First Degree

- Incarceration for more than twenty-five years (reclusion **perpetua**);

- Pecuniary penalties of more than one billion Rials (Rls1,000,000,000);
- Confiscation of the whole assets;
- Dissolution of legal entity;

Second Degree

- Incarceration for more than fifteen years up to twenty-five years (reclusion temporal);
- Pecuniary penalties of more than five hundred and fifty million Rials (Rls550,000,000) up to one billion Rials (Rls1,000,000,000);

Third Degree

- Incarceration for more than ten years up to fifteen years (reclusion temporal);
- Pecuniary penalties of more than three hundred and sixty-million Rials (Rls360,000,000) up to five hundred and fifty million Rials (Rls550,000,000);

Fourth Degree

- Incarceration for more than five years up to ten years (prision mayor);
- Pecuniary penalties of more than one hundred and eighty million Rials (Rls180,000,000) up to three hundred and sixty million Rials (Rls360,000,000);
- Permanent dismissal from governmental and public service;

Fifth Degree

- Incarceration for more than two years up to five years (**prision correccional**);
- Pecuniary penalties of more than one eighty million Rials (Rls80,000,000) up to one hundred and eighty million Rials (Rls180,000,000);
- Civil disabilities for more than five years up to fifteen years;

-
- Permanent disqualification of legal entities from engagement in one or more professional or social activities;
 - Permanent prohibition of legal entities from making public calls for capital increase;

Sixth Degree

- Incarceration for more than six months up to two years (**prision correccional**);
- Pecuniary penalties of more than twenty million Rials (Rls20,000,000) up to eighty million Rials (Rls80,000,000);
- Flogging from thirty-one lashes to seventy-four lashes, and up to ninety-nine lashes in offenses against public morals;
- Civil disabilities for more than six months up to five years;
- Publication of the final sentence in media;
- Disqualification of legal entities from engagement in one or more professional or social activities, for a term of five years at maximum;
- Prohibition of legal entities from making public calls for capital increase, for a term of five years at maximum;
- Prohibition of legal entities from issuing certain commercial papers , for a term of five years at maximum

Seventh Degree

- Incarceration from 91 days to six months (**arresto mayor**);
- Pecuniary penalties of more than ten million Rials (Rls10,000,000) up to twenty million Rials (Rls20,000,000);
- Flogging from eleven lashes to thirty lashes;
- Civil disability for up to six months;

Eighth Degree

- Incarceration for up to three months (**arresto mayor**);
- Pecuniary penalties of up to ten million Rials (Rls1,000,000);
- Flogging up to ten lashes.

Note 1

The instances of civil disability are the same that are mentioned in the accessory penalties.

Note 2

Any punishment the minimum of which conforms to one of the preceding degrees and the maximum thereof to the higher degree is deemed to be an instance of the higher degree.

Note 3

In cases of plurality of punishments, the heavier penalty, and where it is not possible to discern the heavier, the incarceration penalty shall be used as the criterion. Furthermore, where a punishment conforms to none of the eight rows of this Article, it will be assumed to be a seventh degree punishment.

Note 4

The provisions of this Article and Notes thereof are for the sole purpose of setting degrees of punishment and will have no impact on the minimum and maximum of the punishments laid down in current laws.

Note 5

Seizure of instruments and objects used in perpetrating the offense or intended to be employed in committing the offense are excluded from the ambit of this Article and Article 20 (Para. B), and will be dealt with in accordance with Article 215 of the present law. Wherever a sentence is issued for confiscation of the assets, reasonable living costs of the convict and persons supported by him/her shall be excluded.

Article 20

Wherever a legal person is found guilty pursuant to Article 143 of the present law, it will be convicted to one up to two of the following two punishments, depending on the graveness of the offense committed and harmful consequences thereof; this will not preclude punishment of natural persons:

- a. Dissolution of the legal entity;
- b. Confiscation of all assets;
- c. Disqualification from one or more professional or social activities permanently or for a term of five years, at maximum;
- d. Prohibition from making general calls for increasing the capital, permanently or for a term of five years, at maximum;
- e. Prohibition from issuing certain commercial papers for a term of five years, at maximum;
- f. Pecuniary penalty;
- g. Promulgation of conviction by media.

Note

The punishment subject matter of this Article does not apply to governmental legal persons and/or public nongovernmental entities in *acta jure imperii* cases.

Article 21

The amount of pecuniary penalty applicable to legal entities shall be twice, at minimum, and four times, at maximum, the amount of punishment for perpetration of the same offense by natural persons.

Article 22

Dissolution of legal person and confiscation of its assets will be applied when such legal person has been created for committing

offense or has changed its activity solely towards committing offense by diverting from its initially legitimate objective.

Chapter Two: Supplementary and Accessory Punishments

Article 23

The court may sentence any person convicted by it to fixed corporal punishment, talion, or discretionary punishment from the sixth to the first degrees, depending on the offense committed and characteristics of that person, to one or more of the following supplementary punishments:

- a) Forced residence in a specified place;
- b) Prohibition of residence in certain place or places;
- c) Prohibition from engagement in a specified job, profession or work;
- d) Dismissal from governmental and public services;
- e) Prohibition of driving motor vehicles and/or administering motor vehicles;
- f) Prohibition of having checkbooks and/or issuing commercial papers;
- g) Prohibition of carrying arms;
- h) Prohibition of Iranian nationals from exiting the country;
- i) Expulsion of foreign nationals from the country;
- j) Requiring performance of public services;
- k) Prohibition of membership in parties, and political or social groups and teams;
- l) Forfeiture of instruments of committing the offense, or the media or enterprise involved in committing the offense;

- m) Requiring learning of certain profession, occupation or work;
- n) Requiring education;
- o) Publishing the final conviction sentence;

Note 1

The supplementary punishment term shall not exceed two years, save where the law otherwise ordains.

Note 2

Where the supplementary and principal punishments are of the same type, only the principal punishment will be sentenced.

Note 3

The bylaws on manner of executing supplementary punishments will be prepared by the Minister of Justice and will receive approval of the Judiciary Chief, within six months from the date the present law will come into force.

Article 24

Should in the course of execution of a supplementary punishment, the convict fail to comply with the provisions of the sentence, the sentence issuing court, upon suggestion of the Judgment Enforcement Judge will initially increase supplementary punishment mentioned in the sentence by up to one-third; and should the failure be repeated, the court will change the remaining period of sentence to incarceration or pecuniary penalty of seventh or eighth degree.

Furthermore, after a half of the supplementary punishment has been served, the court may set aside or reduce the term of supplementary punishment, if it is ascertained that there is no risk of recidivism, at the suggestion of the Judgment Enforcement Judge.

Article 25

Final conviction for premeditated offenses will subject the convict to civil disability as accessory punishment for the term set forth in this Article:

- a) Seven years from the date execution of the principal sentence is ceased, in execution and life incarceration punishments;
- b) Three years in convictions to amputation and member of human body talions, where wergild of the offense inflicted equals more than a half of the blood money of the victim, and to banishment and incarceration up to the fourth degree;
- c) Two years in convictions to fixed corporal punishment of flogging and member of human body talions, where wergild of the offense inflicted equals a half of the blood money of the victim, or less, and to incarceration up to the fifth degree.

Note 1

In cases other than the foregoing, conviction will be mentioned in the criminal records of the convict, but not in the certificates to be issued by respective authorities, save at the request of judicial authorities for making determination about or reconsidering the punishment.

Note 2

In cases of remissible offenses where after issuance of the final judgment execution is stayed as a result of pardoning by the complainant or private plaintiff, the collateral consequence thereof will also be removed.

Note 3

In conditional pardoning and remission, the collateral consequences of conviction will be removed after lapse of the foregoing periods,

effective from the time of remission or expiry of conditional release term. The convict will be subjected to civil disability during conditional release as well as at the time of execution of the sentence.

Article 26

The civil rights constituting the subject matter of this law are as follows:

- a. Candidacy in presidential, Assembly of Experts for Leadership, Islamic Parliament, and City and Village Islamic Councils elections;
- b. Membership in Council of Guardians, Expediency Discernment Council of the System, and the Council of Ministers, as well as occupying the position of Vice-President;
- c. Occupying the positions of the Judiciary Chief, the Attorney General, the President of the State Supreme Court and President of Justice Administration Tribunal;
- d. Being elected in or membership of associations, councils, parties and societies pursuant to law or by the votes of the people;
- e. Membership in juries, boards of trustees and dispute settlement councils;
- f. Working as the responsible manager or editor-in-chief of mass media;
- g. Employment and/or working in any governmental instrumentalities, including the Three Powers, and organizations and companies affiliated thereto, the Islamic Republic of Iran Broadcasting Organization, the Armed Forces and other entities under the supervision of the Leader, municipalities and entities charged with public services, and

- entities extension of laws to which requires specifying expressly or mentioning their names;
- h. Working as an attorney-at-law and occupying positions of notary public, marriage and divorce registrar and assistant-notary public, and assistant-marriage and divorce registrar;
 - i. Appointment as the guardian, trustee, administrator, supervisor or in charge of public endowments;
 - j. Election as arbitrator or expert in official forums;
 - k. Use of government insignia or honorary titles;
 - l. Establishment, administration or membership in the boards of directors of governmental companies, cooperatives and private companies or registration of trade names or educational, research, cultural and scientific institutes.

Note 1

Employees of governmental organs, if they become subjected to civil disabilities, whether as the principal punishment or as supplementary or accessory punishment, as the case might be, will be dismissed from their jobs during the term set in the sentence or by law.

Note 2

Any person who becomes subjected to civil disabilities as accessory punishment will be rehabilitated after lapse of the terms set forth in Article 25 of the present law, and the collateral consequences of her/his convictions will be obliterated, save in respect of those mentioned at paragraphs a, b, and c of the present Article, of which rights he or she will be permanently deprived.

Chapter Three: Manner of Determination and infliction of Punishments

Article 27

Incarceration term starts on the day when the convict is incarcerated pursuant to a final and legally enforceable sentence. Where the person has been detained prior to issuance of the sentence on the ground of a charge or charges raised in the proceedings, the previous detention term will be taken into account in the sentence. Wherever the sentenced punishment is flogging, as a discretionary punishment, or pecuniary penalty, every day of detainment shall equal three lashes or three hundred thousand (300,000) Rials. In cases of plurality of penalties, computation will be made as regards incarceration, lashes and pecuniary penalty, respectively.

Article 28

All the amounts mentioned in this law and in other laws, including pecuniary penalties will be adjusted proportionately to the inflation rate to be announced by the Central Bank, at the suggestion of the Minister of Justice and upon approval of the Council of Ministers, and will be put into force in respect of the sentences to be issued thereafter.

Article 29

Where a sentence includes detention in lieu of pecuniary penalty together with incarceration, the term of detention in lieu of pecuniary penalty will commence after completion of the incarceration term, which shall not exceed the maximum laid down in the law for that offense; and at any rate, the term of detention in lieu of pecuniary penalty shall not exceed three years.

Article 30

Disqualification from engagement in a specified occupation, business, profession or work entails canceling of the work permit or business, profession or work license, provided that the offense was committed owing to engagement in such occupation, business, profession or work, and that such employment facilitates perpetration of the offense.

Article 31

Disqualification from driving and from administering motor vehicles entails cancellation of driving license and prohibition from reapplying for the same.

Article 32

Disqualification from issuing checks entails canceling blank checks of the checkbook, freezing of the current account and barring renewed application for opening a current account.

Article 33

Prohibition of carrying authorized firearms entails cancellation of firearm carry permit and seizure of the firearm.

Article 34

Foreign travel ban against Iranian nationals entails cancellation of the passport and prohibition of reapplying for the same.

Article 35

Expulsion temporarily or permanently of convicts of foreign nationality will be made after enforcement of punishment and by the court's sentence.

Article 36

The sentences for final conviction in offenses the punishment of which is the fixed punishment of Rebellion against God and Act of Corruption on earth or Discretionary punishment up to the fourth degree, also fraud involving the amount of more than One Billion (1,000,000,000) Rials, will be published once in a local newspaper, provided that their publication would not disturb the peace or security.

Note

Publication of sentences for final conviction in the following offenses where the value of the property subject matter of the offense committed is one billion (1,000,000,000) Rials or more shall be mandatory, and they shall be published once, in the national media or in a widely circulated newspaper:

- a. Bribing and bribery;
- b. Embezzlement;
- c. Exertion of undue influence against provisions of law, should it result in acquiring property by the offender or another person;
- d. Interference of ministers, members of parliament and government employees in governmental and State transactions;
- e. Collusion in governmental transactions;
- f. Receiving finder's fee percentage in foreign transactions;
- g. Abuse of power by governmental officers against the government;
- h. Customs related offenses;
- i. Goods and foreign exchange trafficking;
- j. Tax related offenses;
- k. Money laundering;
 - l. Making disruption in the State economic system;

- m. Unlawful possession of public or governmental properties.

Chapter Four: Mitigation of Punishment and Exemption **therefrom**

Article 37

In case of existence of one or more extenuating circumstance(s), the court may mitigate or commute discretionary punishment in a manner that will be more suitable for the culprit's condition, as follows:

- a. Mitigation of incarceration by one to three degrees;
- b. Commutation of confiscation of assets to pecuniary penalty of the first to the fourth degrees;
- c. Commutation of permanent dismissal to temporary dismissal of five to fifteen years;
- d. Commutation of other discretionary punishments by one to two degrees of the same type or other types.

Article 38

Extenuating circumstances are as follows:

- a. Remission by the complainant or private plaintiff;
- b. Effective cooperation by the accused in identifying accessories or accomplices, collecting evidence or finding objects and things earned from offense, or employed for commitment thereof;
- c. Special circumstances contributing to perpetration of the offense, such as the victim's provocative conduct or word or existence of noble motive in committing the offense;
- d. Declaration of the accused before prosecution or her/his effective confession in the course of investigation and trial;

-
- e. Repentance, good records and/or special condition, such as agedness or illness of the culprit;
 - f. The culprit's endeavor to reduce effects of the offense or her/his measures for remedying the loss arising therefrom;
 - g. Slightness of the damage inflicted on the victim or harmful consequences of the offense;
 - h. Insignificant contribution of an accessory or accomplice to occurrence of the offense.

Note 1

The court shall specify the extenuating circumstances in its judgment.

Note 2

Wherever the circumstances set forth in this Article are provided for in certain articles, the court may not mitigate the punishment again on the ground of the same circumstances.

Article 39

In the offenses the punishments of which are seventh and eighth degree discretionary punishments, should the court after having established that the accused was guilty find that the culprit will be reformed even without enforcing the punishment, it may issue a decree exempting the culprit from punishment, provided that he or she has had no criminal record, has been pardoned by the complainant, and has compensated the damage and loss or has made arrangements for compensation thereof.

**Chapter Five:
Postponement of Issuance of Sentence**

Article 40

In the offenses subjecting the offender to discretionary punishment of the sixth to eighth degrees, the court may, after having found that the accused was guilty, postpone entering of a sentence in view of the individual, family and social statuses, and the records and the circumstances that have caused perpetration of the offense for the period of six months to two years, where the following conditions exist:

- a. Existence of extenuating circumstances;
- b. Prediction that the perpetrator will be reformed;
- c. Indemnification of the damage and loss, or making arrangement for indemnification thereof;
- d. Lack of effective criminal records.

Note

Effective criminal record is a conviction that based on Article 25 of the present law will bring about civil disability for the convict in consequence of enforcement of sentence.

Article 41

Postponement is either in plain form or with surveillance.

- a. In plain postponement, the perpetrator undertakes in writing not to commit any offense in the course of the period set by the court ; and her/his conduct should demonstrate that he or she will not perpetrate an offense in future.
- b. In postponement with surveillance, in addition to the preceding prerequisites, the perpetrator undertakes to carry out the orders and comply with the measures laid down by the court in the course of the postponement period.

Note 1

The court may not issue a writ of postponement of sentence issuance by default.

Note 2

Where the culprit is being detained, the court may issue an order for her/his release, immediately after entering the writ of postponement of sentence issuance. In this respect, the court may order posting of a bail. At any rate, the requirement of posting of a bail shall not lead to detainment of the perpetrator.

Article 42

Postponement with surveillance is in conjunction with the following measures:

- a. Timely appearance on the time and in the place set forth by the judicial authority or the surveillance social worker;
- b. Provision by the convict of the information and documents and papers that facilitates supervision by the social worker over fulfillment of obligations;
- c. Announcing any change in occupation, residence or movement from a place to another within fifteen days, and presenting a report regarding the same to the social worker;
- d. Obtaining authorization of the judicial authority for traveling abroad.

Note

The said measures may be accompanied by certain assistance measures, such as introducing the perpetrator to support institutions.

Article 43

In cases of postponement with surveillance, the writ issuing court may require the perpetrator to carry out one or more of the following orders during the postponement period, considering the offense committed and the characteristics of the perpetrator and her/his living conditions in a manner that will not create essential and material impairment in her/his life or that of her/his family:

- a. Learning a profession or engaging in special professions;
- b. Residing or non-residing in a special place;
- c. Having an illness treated, or quitting drug addiction;
- d. Paying alimony to individuals, whom he is required to financially support;
- e. Restraining from taking charge of all or certain motor vehicles;
- f. Restraining from engagement in professions relevant to the offense committed or using instruments effective in perpetration thereof;
- g. Restraining from establishing relationship and communication with accessories and accomplices to the offense or other persons such as the victim, as determined by the court;
- h. Passing a special course or particular courses for receiving training in and learning basic life skills or participating in training, ethical, religious, educational or sport courses.

Article 44

In the course of postponement, should the culprit commit an offense that makes her/him subjected to fixed corporal punishments, talion, premeditated offenses requiring wergild, or discretionary punishments up to the seventh degree, the court will revoke the writ of postponement and will enter a conviction sentence. In case of contempt of the court (noncompliance with the court's order), the judge may for the first time add up to a half of the period set forth in

the writ to the term of the postponement or enter a conviction sentence.

Note

No stay of execution writ may be issued where a writ of postponement of execution has been revoked, and a conviction sentence has entered.

Article 45

After the postponement period has lapsed, the court will either fix the sentence or issue a punishment exemption decree, as the case might be.

Chapter Six: Stay of Execution of Punishment

Article 46

In the offenses the punishments of which are third to eighth degree discretionary punishments, the court may relieve the punishment, in whole or in part, for a period of one to five year(s), where the requisites set forth for postponement of issuance of sentence are met. The public prosecutor or sentence enforcement judge may also apply for stay of execution after a third of the punishment has been served. The convict may also, after having undergone a third of punishment, apply for the stay, should he or she meet the statutory requisites.

Article 47

As regards the following offenses and attempts to commit them, the issuance of sentence may not be postponed, nor may execution of punishment be stayed:

- a. Offenses against internal and external security of the country, sabotage in water, electricity, gas, oil, and telecommunications installations;
- b. Organized offense, armed robbery or larceny with harassment, kidnapping, and acid assault;
- c. Saber rattling and bothering with knives or any other types of arm, offenses against public morality, setting up or administering corruption and prostitution centers;
- d. Major narcotic or psychedelic drugs trafficking, alcoholic drinks, armaments and ammunitions and human smuggling;
- e. Discretionary punishment as the substitute for talion in premeditated murder, complicity to premeditated murder, Rebellion against God and act of corruption on earth;
- f. Economic offenses, where the offense involves over one hundred million (100,000,000) Rials.

Article 48

Reprieve of punishment, subject to the provisions set forth in postponement of sentence issuance, may either be plain or with surveillance.

Article 49

The writ of stay of execution of punishment may be issued as part of the conviction sentence, or after issuance thereof. A person as to whom execution of punishment has entirely stayed, if detained, will be immediately released.

Article 50

Should a convict, whose punishment has reprieved, be in contempt of the court by not complying with the court orders, without plausible

excuse, the court entering the final sentence may, at the request of the public prosecutor or sentence enforcement judge, add to the period of reprieve one to two years, for the first time, or revoke the stay of execution writ. Contempt of the court (noncompliance with the court order) for the second time will result in setting aside the stay of execution writ and enforcement of punishment.

Article 51

Stay of execution of punishment of a convict shall have no bearing on the right of the private plaintiff; and in those instances the decree on payment of damages or wergild will be enforced.

Article 52

Where the convict has perpetrated no premeditated offense that would subject him to fixed corporal punishment, talion, wergild or discretionary punishment up to the seventh degree, in the period from the date of issuance of the writ until the end of the period of retrieve, the stayed conviction will become inoperative.

Article 53

Where part of a punishment or one of the punishments subject matter of sentence has been reprieved, the period of reprieve will start to run from the date of completion of non-reprieved punishment execution.

Note

In the instances where under administrative and employment laws, criminal conviction results in dismissal, the suspended conviction, if such conviction is suspended, will not result in dismissal, save where the dismissal is expressly stated in the law, or where the stay writ has been revoked.

Article 54

Where in the period from the date of issuance of the writ until the end of the suspension period, the convict commits a premeditated offense that makes her/him subjected to fixed corporal punishments, talion, wergild, or discretionary punishments up to the seventh degree, after the latter sentence has become final, the court will revoke the suspension writ, and after having issued an order for enforcement of the suspended sentence, will announce the matter to the suspension writ issuing court. At the time of issuing the writ of stay, the court will expressly notify to the convict that in case he or she commits one of the foregoing offenses, the reprieved punishment will be enforced against him in addition to that of the latter offense.

Article 55

Where after issuance of a writ of stay, the court finds that the convict had had records of effective criminal convictions or other final convictions including suspended convictions and that the punishment was reprieved in disregard thereof, it will revoke the suspension writ. The public prosecutor or sentence enforcement judge shall also be required to request the court to revoke reprieve of punishment, should they come to notice the foregoing. The provision of this Article also applies to postponement of sentence execution.

Chapter Seven: System of Semi-Freedom**Article 56**

The system of semi-freedom constitutes methods based on which the convict may at the time of serving an incarceration sentence engage in professional, educational, profession learning, treatment, and the like

outside prison. These services will be performed under the supervision of Semi-Freedom Center, which will be set up in Prisons and Security-Corrective Measures Organization.

Article 57

As regards discretionary punishment incarcerations of the fifth to seventh degrees, the court issuing the final sentence may, with the consent of the convict, place him/her under the system of semi-freedom, subject to remission by the complainant, posting suitable bail, undertaking to perform a business, professional, educational, profession apprenticeship activity, participating in continuation of family life or treating addiction or illness that would contribute to the process of correction (of the culprit), or compensation of the damage suffered by the victim. The convict may also, should he or she meet statutory requisites, apply for issuance of a semi-freedom sentence in the course of serving the punishment; and the court shall be required to consider the application.

Chapter Eight: Release on Parole System

Article 58

As to discretionary punishment sentences, the sentence issuing court may at the suggestion of the public prosecutor or judgment enforcement judge issue an order for release on parole, in respect of convicts sentenced to more than ten year incarceration after having served a half of the sentence, and in respect of others after having served a third, subject to the following conditions:

- a. The convict has constantly demonstrated good conduct and behavior in the course of enforcement of punishment;

- b. The condition and conduct of the convict are demonstrative of that he or she will not commit any offense after freedom;
- c. As found by the court, the convict, to the extent financially capable, has paid compensation for the damage and loss as ordered by the court or agreed to by the private plaintiff or has made arrangements for payment thereof;
- d. The convict has not previously taken benefit of release on parole.

The passage of the said periods as well as the matters mentioned at clauses a. and b. of this Article shall be confirmed by the sentence enforcement judge, after the report of the prison warden of the place is presented. The sentence enforcement judge shall be required to examine if the periods set have passed, and to consider situation of the inmate in terms of meeting the foregoing conditions, and to submit a proposal for her/his release on parole, if the foregoing is met.

Article 59

The period of release on parole covers the remaining term of punishment. Yet, the court may change this period. And, at any rate, the term of release on parole may not be less than one year and more than five years, save in the instances where the remaining period is less than one year, in which case the term of release on parole will be equal to the remaining period of incarceration.

Article 60

The court, considering the circumstances of occurrence of the offense and the psychological features and the personality of the convict, may instruct her/him to comply with the orders set forth in the sentence issuance postponement writ. The court will state in its decree the said

orders and the consequences of noncompliance therewith, as well as the consequences of committing a new offense, and will explain the same to the convict.

Article 61

Where a convict in release on parole is in contempt of the court by not complying with the court orders, without plausible excuse, the term of his release on parole will be extended initially by one to two years. Should the act of contempt be repeated, or should he or she commit a premeditated offense the punishment of which is **talion**, wergild, or discretionary punishments up to the seventh degree, the sentence for the remaining period will also be enforced, in addition to the punishment of the latter offense.

Otherwise, he/she will be granted merit termination.

Article 62

In discretionary punishments of the fifth to eighth degrees, the court may, should the requisites provided for in respect of postponement of sentence be met, place the person convicted to incarceration under electronic system supervision, within a certain defined area.

Note

Where required, the court may place the convict under supervision measures or subject to the orders mentioned in the postponement of sentence.

Article 63

The implementing bylaw of the Articles pertaining to semi-freedom and release on parole systems will be prepared by the Prisons and

Security-Corrective Measures Organization, and will be approved by the Judiciary Chief.

Chapter Nine: Incarceration Alternative Punishments

Article 64

The incarceration alternatives constitute probation period, unpaid public services, pecuniary penalty, daily pecuniary penalty and civil disability, which will be determined and enforced in case of remission by the complainant and existence of extenuating circumstances, taking into consideration the type of offense, manner of perpetration thereof, effects arising from the offense, age, skill, status, personality and records of the offender, the condition of the victim and other circumstances.

Note

In the judgment, the court shall state compatibility and proportionality of the punishment subject matter of the judgment with the conditions and circumstances set forth in this Article. The court may not sentence to more than two of the alternative punishments.

Article 65

Perpetrators of premeditated offenses in respect of which the **reculsion** temporal provided by law is three months incarceration shall be sentenced to alternative punishment.

Article 66

Perpetrators of premeditated offenses in respect of which the maximum punishment provided by law is ninety-one days to six months incarceration shall be sentenced to alternative punishment, save where they have a record of criminal conviction as follows for committing a premeditated offense, and the period of five years has not yet passed since enforcement of the sentence thereof:

- a. More than one final conviction to incarceration up to six months, pecuniary penalty of more than ten million (10,000,000) Rials, or flogging as discretionary punishment;
- b. Final conviction to incarceration for more than six months, or to fixed corporal punishment, **talion**, or payment of more than one-fifth of wergild.

Article 67

The court may sentence perpetrators of premeditated offenses in respect of whom the maximum punishment provided by law is more than six months to one year incarceration to alternative punishment. Where the conditions set forth in Article 66 are met, application of alternative punishments shall be prohibited.

Article 68

Perpetrators of unintentional offenses shall be sentenced to alternative punishment, save where the maximum punishment of the committed offense is more than two years, in which case sentencing to incarceration alternative punishments shall be optional.

Article 69

Perpetrators of offenses the type and discretionary punishment degree of which have not been fixed in statutes shall be sentenced to alternative punishment.

Article 70

While determining the alternative punishment, the court shall also make decision regarding the term of incarceration, so that the incarceration sentence would be enforced, in case of impossibility of executing the alternative punishment, disobedience of the orders, or inability to pay pecuniary penalty.

Article 71

Infliction of incarceration alternative punishments in respect of offenses against internal and external security of the country shall be forbidden.

Article 72

Plurality of offenses, the statutorily provided punishment of at least one of which is more than six months of incarceration shall constitute a bar to issuance of an incarceration alternative punishment sentence.

Article 73

In premeditated offenses the statutorily provided punishment of which is more than one year incarceration, should the punishment be mitigated to less than one year, the court may not sentence to incarceration alternative punishment.

Article 74

The provisions of this Chapter shall not apply to final sentences issued prior to the date the present law comes into effect.

Article 75

Accompaniment of other punishments with incarceration punishment shall not be a bar to issuance of an incarceration alternative punishment sentence. In that case, the court may issue a sentence to the said punishments simultaneous with incarceration alternative punishment.

Article 76

The statutorily provided punishment of the offense committed shall be the criterion for determining jurisdiction of a court and appealing from an incarceration alternative punishment sentence.

Article 77

The sentence enforcement judge may propose aggravation, mitigation, commutation or provisional reprieve of sentenced punishment to the sentence issuing court, in view of the status of the convict, and the conditions and effects of sentence execution. The said judge shall have sufficient number of social workers and parole officers at its disposal.

Article 78

In the course of probation term, the convict shall report to the sentence enforcement judge about changes such as change of occupation and place of residence that will preclude or impair execution of the sentence.

Article 79

The types of public service, governmental and public organs and institutes which are to receive convicts, and manner of cooperation of such organs and institutes with the sentence enforcement judge and

the convict shall be in accordance with a bylaw to be prepared by Department of Interior [otherwise called, Home Office, or Ministry of Internal Affairs] and Department of Justice [otherwise called, Ministry of Justice], and to be adopted by the Council of Ministers with approval of the Judiciary Chief. The provisions of this Chapter will come into effect after the bylaw subject matter of this Article will have been adopted.

Article 80

Where compliance by the convict with the provisions of the court sentence is indicative of correction of her/his conduct, the court may at the suggestion of the sentence enforcement judge reduce the term of the remaining term of punishment to a half thereof.

Article 81

Should a convict be in contempt of the court by violating the provisions of the sentence or court orders, the sentenced punishment will be increased by a fourth up to a half, for the first time, and should it be repeated, the incarceration sentence will be enforced.

Note

In the text of a sentence the court shall explicitly mention the effects of obedience and violation of the provisions of the sentence, and shall point out the same to the convict. In the course of execution also, the sentence enforcement judge shall, in compliance with the provisions of the court sentence and the respective regulations, specify the manner of supervising and monitoring the convict.

Article 82

Where execution of the whole or a part of an incarceration alternative punishment sentence encounters an impediment, the sentenced punishment or the unexecuted part thereof will be enforced after removal of the impediment. Where the said impediment has been created by the deliberate conduct of the convict and in order to obstruct execution of punishment, the principal punishment will be enforced.

Article 83

The parole period constitutes certain spans of time during which the convict, by the sentence of the court and under the supervision of the sentence enforcement judge, is sentenced to carry out one or more of the orders stated in the reprieve with parole order, as follows:

- a. As regards offenses the statutorily provided punishment of which is incarceration for three months at maximum, up to six months;
- b. As regards offenses the statutorily provided punishment of which is incarceration for ninety-one days to six months, and the offenses the type and amount of discretionary punishments of which are not specified in statutes, from six months to one year;
- c. As regards the offenses the statutorily provided punishment of which is incarceration for more than six months up to one year, one to two year(s);
- d. As regards unintentional offenses the statutorily provided punishment of which is incarceration for more than one year, two to four years.

Article 84

The unpaid public services are services that will be sentenced to with the consent of the convict for a specified period as follows, and will be carried out under the supervision of the sentence enforcement judge:

- a. Offenses subject matter of Article 83 (a), up to 270 hours;
- b. Offenses subject matter of Article 83 (b), 270 to 540 hours;
- c. Offenses subject matter of Article 83 (c), 540 to 1080 hours;
- d. Offenses subject matter of Article 83 (d), 1080 to 2160 hours.

Note 1

The hours of rendering public service shall not exceed four hours in respect of working individuals and eight hours in respect of non-working individuals. At any rate, the number of hours of provision of the service in a day shall not be as such that would prevent the convict from earning her/his livelihood reasonably.

Note 2

A sentence to provision of public service shall be subject to observance of all statutory standards and regulations pertaining to that service, including those concerning working conditions of women and young adults, technical and hygienic cares and special rules on hard and harmful works.

Note 3

The court may not issue a sentence severer than the public service set forth in the bylaw subject matter of the present chapter. At any rate, where the convict does not consent to performance of public services, the principal punishment will be imposed.

Note 4

The sentence enforcement judge may, in view of physical condition of the convict, his requiring medical services or having family excuses, and the like, suspend performance of public services temporarily and for a period up to three months in the course of parole period, or propose commutation thereof to another alternative punishment to the sentence issuing court.

Article 85

Pecuniary penalty constitutes one-eighth to one-fourth of the daily income of the convict, which will be sentenced as follows, and which will be collected under the supervision of the sentence enforcement judge:

- a. Offenses subject matter of Article 83 (a), up to one hundred and eighty days;
- b. Offenses subject matter of Article 83 (b), one hundred and eighty to three hundred and sixty days;
- c. Offenses subject matter of Article 83 (c), three hundred and sixty to seven hundred and twenty days;
- d. Offenses subject matter of Article 83 (d), seven hundred and twenty to one thousand, four hundred and forty days.

Note

The convict shall be required to pay daily pecuniary penalty of each month within ten days after the end of that month.

Article 86

The amounts of incarceration alternative pecuniary penalty are as follows:

- a. Offenses subject matter of Article 83 (a), up to nine million (9,000,000) Rials;
- b. Offenses subject matter of Article 83 (b), from nine million (9,000,000) Rials to eighteen million (18,000,000) Rials;
- c. Offenses subject matter of Article 83 (c), from eighteen million (18,000,000) Rials to thirty-six million (36,000,000) Rials;
- d. Offenses subject matter of Article 83 (d), from thirty-six million (36,000,000) Rials to seventy-two million (72,000,000) Rials.

Article 87

While sentencing an incarceration alternative punishment, the court may, in view of the offense committed and the condition of the convict, sentence her/him to one or more accessory and/or supplementary punishment(s). In that case, the term of the said punishment shall not exceed two years.

Chapter Ten: Minor and Juvenile Punishments and Security and Corrective Measures

Article 88

As to minors and juveniles who commit offenses the punishment of which is discretionary punishment and whose age at the time of perpetration is nine to fifteen years, the court will make one of the following decisions:

- a. Handing her/him over to the parents, natural guardians or the statutorily appointed guardian, by obtaining an undertaking to

chastise, to train, and to see that the minor or juvenile will be of good conduct.

Note

Wherever the court finds it expedient, it may, as the case might be, obtain from the persons mentioned in this clause an undertaking to perform matters such as the following and to inform the court of the result: .

1. Introducing the minor or the juvenile to a social worker or psychologist, and to other specialists, and cooperating with them;
 2. Dispatching the minor or the juvenile to an educational and cultural institute for studying or for learning a profession;
 3. Taking measures required for the minor or the juvenile to give up drug addiction under a physician's care;
 4. Preventing the minor or the juvenile from socializing and making harmful relation with persons, at the discretion of the court;
 5. Preventing the minor or the juvenile from dropping by certain places.
- b. Handing her/him over to other natural persons or legal entities that the court finds to be in the interest of the minor or the juvenile, where the parents, natural guardians or the statutorily appointed guardian of the minor or the juvenile are incompetent or unavailable, subject to provisions of Article 1173 of the Civil Code;

Note

Handing over a minor to qualified persons shall be subject to their acceptance.

- c. Giving advices by the judge of the court;

- d. Warning, admonishing, or obtaining written undertaking not to relapse into offense;
- e. Detention in the reformatory for the period of three months to one year in respect of the offenses with first degree to fifth degree discretionary punishments.

Note 1

Decisions mentioned at **Paras. d. and e.** may be executed only in respect of minors and juveniles with twelve up to fifteen years of age. **Application of the provision of Para. e** as regards minors and juveniles who have committed offenses with the discretionary punishments of the first to the fifth degrees shall be mandatory.

Note 2

Where an underage person commits an offense punishable by fixed corporal punishment or talion, should he or she have twelve to fifteen years of age according to lunar calendar, he or she will be sentenced to one of the measures laid down in Paras. d. and/or e. Otherwise, one of the measures set forth in Paras. a to c. of this Article will be taken in respect to him/her.

Note 3

As regards decisions referred to in Paras. a. and b. of this Article, the Minors and Juveniles Court may revise its decision as many times as the interest of the minor or juvenile may require, considering the investigations made, as well as the reports of social workers on the condition of the minor or juvenile and her/his conduct.

Article 89

As regards juveniles who commit offenses punishable by discretionary punishments and who, at the time of perpetration, are of fifteen to eighteen years of age in solar calendar, the following punishments will be executed:

- a. Detention in the reformatory for the period of two to five years in respect of the offenses the statutorily prescribed punishments of which are the first to the fifth degree discretionary punishments;
- b. Detention in the reformatory for the period of one to three year(s) in respect of the offenses the statutorily prescribed punishment of which is the fourth degree discretionary punishment;
- c. Detention in the reformatory for the period of three months to one year, or pecuniary penalty from ten million (10,000,000) Rials to forty million (40,000,000) Rials, or performance of one hundred and eighty to seven hundred and twenty hours of unpaid public services in respect of the offenses the statutorily prescribed punishments of which is the fifth degree discretionary punishment;
- d. Payment of pecuniary penalty from one million (1,000,000) Rials to ten million (10,000,000) Rials, or performance of sixty to one hundred and eighty hours of unpaid public services in respect of the offenses the statutorily prescribed punishments of which is the sixth degree discretionary punishment;
- e. Payment of pecuniary penalty up to one million (1,000,000) Rials in respect of the offenses the statutorily prescribed punishments of which are the seventh degree and eighth degree discretionary punishments.

Note 1

The public services provision hours shall not be more than four hours per day.

Note 2

Considering the condition of the culprit and the offense committed, the court may sentence her/him to staying at home for certain hours that the court will fix or detention at the reformatory in the course of the two weekend days as the case may be for a term of three months to five years, in place of detention or pecuniary penalty the subject matter of Paras. a. to c. of this Article.

Article 90

The court may revise its decision once in view of the reports received regarding the condition of the minor or juvenile and her/his conduct in the reformatory, and reduce detention term up to a third or commute the detention to handing the minor or the juvenile over to her/his natural guardian or legally appointed warden. The court's decision on revision shall be subject to the minor or the juvenile having already served at least a fifth of the detention term in reformatory. The court's decision in this respect shall be final. This provision shall not be a bar to release on parole and other mitigations provided by law, where the requisites thereof are met.

Article 91

As to the offenses the punishment of which is fixed corporal punishment or talion, where sexually mature persons of less than eighteen years do not comprehend the nature of the offense committed or illegitimacy thereof, or where doubts arise as to their having

reached full mental growth and development, they will be sentenced to the punishments laid down in this chapter, according to their age.

Note

In order to make determination about existence of full mental growth and development, the court may inquire the forensic medicine opinion or use any other means that it deems to be appropriate.

Article 92

As regards the offenses which require payment of wergild or which create any other type of civil liability, the Minors and Juveniles Court shall render sentences in accordance with the provisions pertaining to payment of wergild and damages.

Article 93

The court may, where it finds that extenuating circumstances exist, reduce punishment to a half, or commute minors and juveniles security and corrective measures to another measure.

Article 94

As regards all offenses perpetrated by the juveniles the punishment of which is discretionary punishment, the court may postpone issuance of the sentence or stay execution of punishment.

Article 95

Criminal convictions of minors and juveniles create no criminal records.

Chapter Eleven: Lapse of Punishment

Section One: Pardon

Article 96

Pardon or mitigation of punishment, within the limits authorized by Islamic principles, shall be vested in the Leader, after suggestion of the Judiciary Chief.

Article 97

General clemency, which is granted by law in the offenses punishable by discretionary punishment, will abate the prosecution and the proceeding. In that case, where a conviction sentence has been issued, execution of punishment will be discontinued, and the effects of conviction will be removed.

Article 98

Pardon will wipe out all consequences of conviction, yet has no impact on payment of wergild and reparation for damage to the victim.

Section Two: Abrogation of Law**Article 99**

Abrogation of law will abate prosecution, and will cause reprieve of execution of punishment. The effects of abrogation of criminal laws shall be as stated in Article 10 of the present law.

Section Three: Remission by Complainant**Article 100**

In remissible offenses, remission by the complainant or private plaintiff, as the case might be will result in abatement of prosecution or reprieve of execution of punishment.

Note 1

Remissible offenses are offenses initiation and continuation of prosecution, trial, and execution in respect of which shall be subject to the complaint of a complainant and non-remission on her/his part.

Note 2

Irremissible offenses are offenses that the complaint by the complainant and remission on her/his part shall have no bearing on initiation of prosecution and trial and continuation thereof, and execution of punishment.

Note 3

The provisions concerning remission by complainants in respect of talion by execution and dismemberment, fixed corporal punishment for false accusation of fornication (adultery) /sodomy, and fixed corporal punishment for larceny are those set forth in Book Two of this law. Remission by the complainant in other offenses punishable by fixed corporal punishment shall have no bearing on abolition of punishment.

Article 101

Remission shall be absolute; and conditional and contingent remissions will be given effect only where the condition and the event upon which the remission is contingent have been met and occurred. Furthermore, waiver of remission shall be inadmissible.

Note 1

Conditional or contingent remission shall not constitute a bar to prosecution, trial and issuance of sentence. However, execution of punishment in remissible offenses shall be subject to non-satisfaction

of the condition and nonoccurrence of the contingency. In that case, the convict will be released on bail by issuance of an appropriate writ to that effect.

Note 2

Giving effect to remission by a *guardian ad litem* shall be subject to approval of the public prosecutor.

Article 102

Where there is a number of victims of an offense, prosecution will commence upon lodging a complaint by each of them, but abatement of prosecution and proceeding, and reprieve of execution of punishment shall be subject to remission by all complainants.

Note

The right to remit will be transferred to the heir under the law of the victim of offense. Prosecution and proceeding will be abated, and execution of punishment will be reprieved, upon remission by all heirs.

Article 103

An offense, the remissibility of which is not expressly stated in the law, shall be deemed to be **irremissible**, save where it constitutes an offense against rights of the people and is remissible under the divine law.

Article 104

In addition to the offenses with discretionary punishment mentioned in the Book on Fixed Corporal Punishments and in the chapter on Fixed Discretionary punishment for the offense of false accusation of

fornication (adultery) , and the offenses that are remissible pursuant to special laws, the offenses mentioned in the last parts of Articles 596, 608, 622, 632, 633, 642, 648, 668, 669, 676, 677, 679, 682, 684, 685, 690, 692, 694, 697, 698, 699, and 700 of Book Five on Discretionary punishments shall also be remissible.

Section Four: Statute of Limitations

Article 105

Lapse of time shall bar prosecution of the offenses punishable by discretionary punishment when such an offense has not been prosecuted within the period from the date of perpetration of the offense until expiration of the following periods, or when it has not ended in issuance of a final judgment in the period from the last prosecution or interrogation measure thereof until expiry of the following periods:

- a. Offenses punishable by the First Degree to the third degree discretionary punishments, upon lapse of fifteen years;
- b. Offenses punishable by the fourth discretionary punishment, upon lapse of ten years;
- c. Offenses punishable by the fifth degree discretionary punishment, upon lapse of seven years;
- d. Offenses punishable by the sixth degree discretionary punishment, upon lapse of five years;
- e. Offenses punishable by the seventh degree and eighth degree discretionary punishments, upon lapse of three years.

Note 1

Prosecution or interrogation action is a measure taken by judicial authorities in carrying out a legally provided function such as summoning, arresting, interrogating, hearing witnesses and informants statements, making offense scene investigations or inspection and letters **rogatory**.

Note 2

As regards *writ of litispendia*, limitation period of criminal prosecution will start to run on the date of finalization of the judgment of the forum the criminal proceeding is subject to issuance thereof.

Article 106

As regards the offenses punishable by discretionary punishment, should the victim of the offense fail to complain within the period of one year from the date he or she became aware of perpetration of the offense, he or she will lose the right to lodge a criminal complaint, save where he or she has been under the domination of the accused or has been unable to complain for any reason beyond his own control, in which case, the foregoing respite will be calculated from the date when the hindrance is lifted. In case the victim passes away before expiry of the aforesaid period and there is no evidence showing that he or she waived her/his right to sue, every heir shall have the right to lodge a complaint within a respite of six months from the date of decease.

Note

In the instances other than those where the complainant was under the accused person's domination, her/his complaint or that of his or her heirs will be heard, if the offense subject matter of the suit has not

become barred by the statute of limitations pursuant to Article 105 of the present Code.

Article 107

Prescription shall bar execution of final sentences; and its term effective from the date the sentence has become finalized shall be as follows:

- a. Offenses punishable by the first degree to the third degree discretionary punishments, upon lapse of twenty years;
- b. Offenses punishable by the fourth degree discretionary punishment, upon lapse of fifteen years;
- c. Offenses punishable by the fifth degree discretionary punishment, upon lapse of ten years;
- d. Offenses punishable by the sixth degree discretionary punishment, upon lapse of seven years;
- e. Offenses punishable by the seventh degree and eighth degree Discretionary punishments, upon lapse of five years.

Note 1

Where execution of the whole or the rest of punishment is subject to lapse of a period or removal of a hindrance, prescription will be calculated from the date the foregoing period has lapsed or the hindrance has been lifted.

Note 2

The limitation period for execution of foreign courts' sentences concerning Iranian nationals within the limits of statutory regulations and agreements shall be subject to the provisions of the present Article.

Article 108

Whenever execution of punishment has commenced, but for any reason is interrupted, the date of commencement of statute of limitation period shall be the date of interruption of punishment execution. And, in the instances where it has been interrupted more than once, the date of commencement of statute of limitation period shall be the date of the last interruption, save where punishment was interrupted by deliberate act of the convict, in which case statute of limitation shall not apply.

Article 109

The following offenses shall not become subject to statutes of limitations on prosecution, issuance of sentence, and execution of punishment:

- a. Offenses against internal and foreign security of the State;
- b. Economic offenses, including fraud and offenses subject matter of Article 36(Note) of this law, taking note of the amounts laid down in that Article;
- c. Offenses subject matter of the Anti Drug Act

Article 110

When in respect of a person numerous final convictions have been issued by a sentence or a number of sentences, commencement of execution of any of convictions will interrupt running of statute of limitations in respect of other convictions.

Article 111

In cases of reprieve of punishment or grant of release on parole, should the writ of reprieve of punishment or order on grant of release

on parole be revoked, the limitation period will start to run on the date the writ or order is revoked.

Article 112

Interruption of limitation period running shall be absolute, and will apply to all accomplices and accessories, whether prosecuted or not, even where prosecution has initiated only in respect of one of them. Furthermore, commencement of execution of a sentence in respect of certain accomplices or accessories to an offense will cut off running of time limitation in respect of others.

Article 113

Abatement of prosecution, issuance of a sentence or execution of punishment shall not preclude adjudication of rights by the private plaintiff; and, the victim may institute private claims before the competent forum.

Section Five: Repentance of Offender

Article 114

In respect of the offenses punishable by fixed corporal punishment, with the exception of false accusation of fornication (adultery) and Rebellion against God, should the accused repent before he or she is found guilty, and the genuineness of her/his penitence and reform is established for the judge, the fixed corporal punishment against him will be quashed. Furthermore, where commitment of the foregoing offenses, except for false accusation of fornication (adultery) and Rebellion against God, has been established, should the culprit repent even after the guilt is established, the court may demand her/his pardon from the Leader through the Judiciary Chief.

Note 1

Repentance of Rebel against God before he or she is arrested or dominated over shall engender quash of fixed corporal punishment.

Note 2

In cases of fornication (adultery) and sodomy where the offense is committed by violence, coercion and/or by seduction, should the culprit repent and the punishment be quashed as stated in this Article, he or she will be sentenced to sixth degree incarceration or flogging or both.

Article 115

As regards offenses punishable by sixth, seventh and eighth degree discretionary punishments, should the perpetrator repent and the genuineness of her/his penitence and reform be established for the judge, the punishment shall be quashed. As to other offenses punishable by discretionary punishment, the court may apply the provisions on mitigation of punishment.

Note 1

The provisions on repentance shall not extend to the persons in respect of whom the provisions on relapse into offenses punishable by discretionary punishments apply.

Note 2

The generality of the provision of this Article, as well as that of the provisions of Articles 7(b), 8 (a) and (b), 28, 39, 40, 45, 46, 92, 93 and 95 shall not encompass offenses the discretionary punishments of which are expressly set by the religion.

Article 116

Wergild, talion, discretionary punishment for false accusation of fornication (adultery) /sodomy, and punishment for Rebellion against the God will not be quashed by repentance.

Article 117

In the instances where repentance of the perpetrator will result in quash or commutation of the punishment, the repentance, reform and penitence of her/him ought to be established; and mere allegation of the perpetrator to that effect will not suffice. Should it be established, after having applied the provisions concerning repentance, that the perpetrator has repented only ostensibly, quash of punishment and the respective commutations will be set aside, and the punishment will be enforced. In that case, should the punishment be of discretionary type, the perpetrator will be sentenced to the maximum discretionary punishment imposable.

Article 118

The accused shall be allowed to submit the evidence pertaining to her/his repentance to the prosecuting or trying authority, as the case might be, at any time prior to finalization of the sentence.

Article 119

The public prosecutor may appeal from the sentence, should he or she oppose quash or commutation of punishment.

Section Six: Application of Reasonable Doubt Principle

Article 120

Wherever reasonable doubt or uncertainty arises as to perpetration of offense or existence of certain elements thereof and/or the prerequisites for criminal liability, and no evidence is found to remove it, the commitment of offense or existence of the said prerequisite shall not be presumed.

Article 121

In offenses punishable by fixed corporal punishment, with the exception of Rebellion against God, larceny, and false accusation of fornication (adultery)/sodomy, the mere existence of reasonable doubt or uncertainty will result in non-establishment of commission of offense or existence of the said prerequisite, as the case might be, without requiring a search for obtaining evidence.

PART THREE: OFFENSES

Chapter One: Attempt to commit an offense

Article 122

Any person who had the *mens rea* to commit an *actus reus* and started to commit it, but was prevented from accomplishing her/his intent for reasons beyond her/his control, shall be punished as follows:

- a. In the offenses the punishment of which is capital punishment, life incarceration or discretionary punishment from the first degree to the third degree, by discretionary punishment of the fourth degree;
- b. In the offenses the punishment of which is amputation of a body organ or discretionary punishment incarceration of the fourth degree, by discretionary punishment of the fifth degree;
- c. In the offenses the punishment of which is flogging as a discretionary punishment or discretionary punishment of the fifth degree, by discretionary punishment or flogging or sixth degree pecuniary penalty.

Note

Wherever the conduct committed directly related to perpetration of an offense, but its commission was made impossible owing to tangible causes of which the culprit was unaware, the act committed will be tantamount to attempt.

Article 123

Mere intent to commit an offense and/or engagement in operations and measures that only constitute preparation for an offense, without being directly related to perpetration of the offense, shall not be considered as attempt, and will not be *per se* punishable.

Article 124

Any person who starts committing an offense, but abandons it by her/his own free will shall not be prosecuted for attempting that offense. However, where the conduct, to the extent committed, constitutes an offense, he or she shall be sentenced to the punishment thereof.

Chapter Two: Complicity in an offense

Article 125

Any person who collaborates with another/other person(s) in implementing operations of an offense, and the offense is attributable to the conducts of all of them shall be deemed to be *particeps criminis* in the offense, notwithstanding whether the conduct of each sufficed for perpetration of the offense or not and whether the effect of their contribution thereto was equal or varied; and their punishment shall be that of the independent perpetrator of the same offense.

Note

Imposition of fixed corporal punishments, talion and wergilds in cases of complicity in offenses shall be subject to the provisions of Books Two, Three and Four of the present Code.

Chapter Three: Aid and Abet in an offense

Article 126

The following persons will be deemed to be **aider** and abettor to an offense:

- a. Every person who encourages, threatens, induces or provokes the other to commit an offense, or who causes perpetration of offenses by conspiracy, deceit, or misuse of power;
- b. Every person who makes or procures instruments of offense or provides means for committing the offense;
- c. Every person who facilitates perpetration of an offense.

Note

For the offense of aid and abet in an offense to be established, there shall be required sameness of intent, and precedence or proximity in time of the act of the aider and abettor to that of the perpetrator of the offense. Where the principal culprit commits more severe an offense than that purposed by the aider and abettor, the aider and abettor will be sentenced to the punishment of the less severe offense.

Article 127

Where no independent punishment is fixed for the aider and abettor in the religion or law, her/his punishment shall be as follows:

- a. In the offenses the statutorily prescribed punishment of which is capital punishment or life incarceration: Discretionary punishment of the second or third degree;
- b. In the offense of larceny of the type punishable by discretionary punishment and malicious dismemberment: The fifth or sixth degree Discretionary punishment;
- c. In the offenses the statutorily prescribed punishment of which is discretionary punishment of flogging: Thirty-one

to seventy-four lashes prescribed as the sixth degree punishment;

- d. In the offenses punishable by discretionary punishments: Discretionary punishment of one to two degree less severe than that of the offense committed.

Note 1

As to Para. d. of this Article, the punishment of the aider and abettor shall be the same as the statutorily prescribed punishment of the offense committed, except for confiscation of assets, permanent dismissal and publication of the sentence, where the punishment of the aider and abettor shall be fourth degree, sixth degree and seventh degree pecuniary penalties, respectively.

Note 2

Should for any reason, capital punishment talion or amputation of body organ not be executed, the punishment of aider and abettor shall be imposed on the basis of the degree of discretionary punishment of the main offender, in accordance with Para. d. of the present Article.

Article 128

Any person who uses minors as the means of committing an offense attributable to that person herself/himself shall be sentenced to the maximum statutorily prescribed punishment of the same offense. Furthermore, any person who aids and abets in the criminal act of a minor shall also be sentenced to the maximum punishment prescribed for aiding and abetting the same offense.

Article 129

Where owing to circumstances pertaining to the person of the offender, such as minority and insanity, he or she is not prosecutable, or where due to such circumstances the prosecution has abated or execution of punishment has stayed against her/him, those circumstances shall have no effect on the prosecution and punishment of the aider and abettor.

Chapter Four: Leadership of an Organized Criminal Group

Article 130

Any person who assumes leadership of a criminal group shall be sentenced to the maximum punishment of the most serious offense that members of that group have committed towards realization of the objectives of the same group, save where the offense committed is punishable by fixed corporal punishment, talion or wergild, in which case he or she will be sentenced to the maximum punishment of aid and abet in that offense. In Rebellion against God and corruption on earth, when the title of Rebel against God or corruptor on earth applies to the leader of the criminal group, he or she will be sentenced to the punishment prescribed for a Rebel against God or corruptor on earth, as the case might be.

Note 1

Criminal group constitutes a relatively consolidated group consisting of three or more persons, which is formed to commit offense, or the objective of which has been diverted to perpetration of offense, after formation.

Note 2

Leadership means forming, designing, organizing or administering a criminal group.

Chapter Five: Plurality of Offenses

Article 131

In offenses punishable by discretionary punishment, where a single conduct is variably criminalized as different offenses, the perpetrator shall be sentenced to the severest punishment.

Article 132

In the offenses punishable by fixed discretionary punishment, plurality of offenses requires multiple punishments, save where the offenses committed and punishments thereof are identical.

Note 1

Where the perpetrator is sentenced to death penalty and life incarceration or death penalty and banishment, only the death penalty will be executed.

Note 2

Where two or more offenses, which are punishable by fixed corporal punishment, are aligned and are committed in one the same event, only the more severe punishment will be executed; for example, as regards illegitimate **intercrural** (**interfemoral**) sex followed by sodomy penetration, only the punishment for sodomy will be enforced.

Note 3

Where a man and a woman commit fornication (adultery) with each other several times, should execution and whipping or stoning to death

and whipping punishments be sentenced, only execution or stoning to death, as the case might be, will be enforced.

Note 4

In case false accusation of fornication (adultery) /sodomy is made against two or more persons, two or more punishments shall be enforced.

Article 133

In cases of plurality of offenses punishable by fixed corporal punishment and talion, the punishments shall be aggregated. However, should fixed corporal punishment extinguish the object of offense, or create delay in enforcement of talion, precedence shall be given to enforcement of talion; and where immediate enforcement of talion is not requested, in case of remission, or where talion has been converted into wergild, the fixed corporal punishment shall be enforced.

Article 134

In the offenses punishable by discretionary punishment, where the offenses committed are not more than three, the court shall impose the severest prescribed punishment for each offense; and where committed offenses are more than three, it will set a punishment higher than the maximum statutorily provided punishment, provided that such punishment would not exceed the maximum punishment plus a half thereof. In each of the foregoing cases, only the severest penalty will be enforceable; and, where the severest penalty is mitigated owing to any of the attenuating circumstances or has been converted or become unenforceable, the next severest punishment shall be enforced.

Where the punishment has no minimum and maximum, up to one-fourth of the statutorily provided punishment shall be added to the principal punishment, if committed offenses are not more than three, and up to a half shall be added thereto, where committed offenses are more than three.

Note 1

Where a single criminal act produces multiple criminal consequences, the preceding provisions shall apply.

Note 2

Where the aggregate of the committed crimes has been criminalized as amounting to a special crime, the provisions of plurality of offenses shall not apply and the perpetrator will be sentenced to the punishment laid down in law.

Note 3

In cases of plurality of offenses, should there be attenuating circumstances, the court may reduce punishment of the perpetrator up to the mean of the minimum and the maximum; and should the punishment have no minimum and maximum by a half.

Note 4

The provisions on plurality of offenses shall not apply to the crimes with discretionary punishments of seven and eight degrees. Those punishments will be aggregated together and with the discretionary punishments of the first to sixth degrees.

Article 135

Where multiple offenses punishable by fixed corporal punishment and discretionary punishment are committed, also where multiple offenses punishable by talion and discretionary punishment are perpetrated, the punishments will be aggregated, and initially, the fixed corporal punishment or talion will be enforced, save where fixed corporal punishment or talion results in death, and discretionary punishment involves people's rights or religiously specified discretionary punishment and its execution will not cause delay in execution of fixed corporal punishment, in which case the discretionary punishment will be initially enforced.

Note

Where (in cases of committing multiple offenses), the offense with a fixed corporal punishment is of the same type as the offense punishable by discretionary punishment, such as in cases of perpetration of larceny punishable by fixed corporal punishment and larceny punishable by other than fixed corporal punishment, or in case of commission of fornication (adultery) and illegitimate sexual relation short of fornication (adultery), the perpetrator will be only sentenced to the fixed corporal punishment and the discretionary punishment will be set aside, save in respect of the fixed corporal punishment for false accusation of fornication (adultery) /sodomy, where false accusation of fornication (adultery) /sodomy is committed against one and insult against another person, in which case the perpetrator shall be sentenced to both punishments.

Chapter Six: Recidivism

Article 136

Death penalty shall be the fixed corporal punishment for every person who has committed one the same offense punishable by fixed corporal punishment for the fourth time, when he or she had already committed the same offense three times and the fixed corporal punishment was executed against her/him every time.

Article 137

Where a person sentenced by final judgment to a discretionary punishment of the first to the sixth degrees commits another offense punishable by the first to the sixth degrees within the period from the date of finalization of the judgment until realization of rehabilitation or lapse of punishment enforcement statute of limitations period, he or she shall be sentenced to the maximum punishment up to one and a half thereof.

Article 138

Provisions pertaining to recidivism shall not apply to political and median offenses and to juvenile delinquencies.

Article 139

In case of repetition of offenses punishable by discretionary punishment, where extenuating circumstances exist, action will be taken as follows:

- a. Where the statutory punishment has a minimum and a maximum, the court may mitigate the perpetrator's punishment up to the mean of the minimum and maximum of the punishment.
- b. Where the punishment is fixed or has no minimum, the court may mitigate punishment of the perpetrator up to a half of the prescribed punishment.

Note

Mitigation provisions shall not apply in cases where the perpetrator has three or more final convictions, which are subject to recidivism provisions.

PART FOUR: PREREQUISITES AND BARRIERS OF CRIMINAL LIABILITY

Chapter One: Prerequisites of Criminal Liability

Article 140

Criminal liability as regards fixed corporal punishment, talion, and discretionary punishment is established only when the person has been sane, of full age and free in his own action at the time of perpetrating the offense, except for duress in murder, the law in respect of which is laid down in the Book Three “Talion”.

Article 141

Criminal liability is personal.

Article 142

Criminal liability for another person's conduct is only established where a person is legally responsible for the acts of the other, or where he or she commits a fault in relation to the result of the conduct committed by the other.

Article 143

The principle in criminal liability is that natural person may incur criminal liability, and that legal person may incur criminal liability where a legal representative of the legal person commits an offense in the name or for the benefit of the legal person. Incurrence of criminal

liability by legal persons will not bar liability of natural persons perpetrating crimes.

Article 144

For a premeditated offense to have been committed there shall be established, in addition to the knowledge of the perpetrator of the subject matter of the offense, *mens rea* that is his /her intent to commit the criminal act. In the offenses commission of which according to the law is conditioned upon realization of the result, malice, that is the intent to achieve the result or knowledge of occurrence thereof shall also be established.

Article 145

Commission of unintentional offense shall be conditioned upon establishment of culpa by the perpetrator. In unintentional offenses, whether torts or culpa fault (*levissima culpa*), the provisions of the Book on Talion and Wergilds shall be applied.

Note:

Culpa includes both negligence and lack of due diligence. Neglect, nonchalance, lack of skill, and nonobservance of governmental regulations and the like, as the case might be, may be considered to be negligence or lack of due diligence, as the case might be.

Chapter Two: Barriers to Criminal Liability

Article 146

Minors shall bear no criminal liability.

Article 147

Age of majority in girls and boys shall be respectively full nine and full fifteen years in lunar calendar.

Article 148

As regards minors security and corrective measures shall be applied in accordance with the provisions of the present law.

Article 149

Where at the time of committing an offense the perpetrator suffered from mental disorder in such manner that he or she lacked the volition and power of discernment, he or she will be deemed insane, and shall have no criminal liability.

Article 150

Where the perpetrator of an offense was insane at the time of committing the offense or where as regards the offenses punishable by discretionary punishment, he or she develops insanity after perpetrating the offense, should according to a specialist, her/his insanity and dangerous condition be established and her/his liberty would despair public order and security, he or she will be held at the order of the public prosecutor in an appropriate place, until removal of the dangerous condition. The person held or her/his relatives may object to that order, in which case, the court will consider the matter in an administrative session to be attended by the objector and after having obtained an expert's view in respect thereof, will order the security measure to be terminated, should it find that the dangerous condition is removed, and otherwise, will render a judgment affirming the public prosecutor's order. This judgment will be final. Yet, the person held or her/his relatives shall have the right to appeal from the judgment, any time that they notice signs of recovery.

This shall not bar the public prosecutor from issuing termination of security measure wherever as found by a psychiatrist the perpetrator has healed, at the request of the manager of the place where he or she is being held.

Note 1

Where the perpetrator of an offense punishable by fixed corporal punishment becomes insane after issuance of a final sentence, the fixed corporal punishment shall not become vacated. Should insanity be developed prior to issuance of the final judgment, the prosecution and trial will be postponed until the time of recovery, to the extent that it constitutes a sin against God. As to the punishments involving the rights of people, such as talion and corporal punishment, also as regards damage and loss arising from an offense, insanity shall not be a bar to prosecution and trial.

Note 2

The Judiciary shall have the duty to prepare security measure centers in each judicial district for holding the persons subject matter of this Article. So long as those places have not commenced their work, part of the existing welfare or hospital psychotherapy centers shall be allocated to these individuals.

Article 151

As regards the offenses punishable by discretionary punishment, wherever a person commits a conduct, which is criminalized by law, under unbearable duress, the **duressor** will be sentenced to the punishment of the perpetrator of the offense. The offenses punishable by fixed corporal punishment and talion will be treated in accordance with the respective provisions.

Article 152

Any person who has committed a conduct criminalized by law in times of existing or eminent extreme hazards, such as fire, flood, hurricane, earthquake or disease, in order to save his own life or property or those of others, shall not be subject to punishment, provided that he did not create the danger deliberately and that the perpetrated conduct was proportionate to the existing hazard and necessary for repulsing it.

Note

Those who are obliged to encounter hazards on account of their duty or by law may not refuse to discharge their legal tasks by resort to this Article.

Article 153

Every person who commits a conduct criminalized under the law in sleep or unconsciousness and like conditions will not be punished, save where he has slept or made herself/himself unconscious, deliberately, knowing that he or she will commit an offense when sleeping or in the state of unconsciousness.

Article 154

Drunkenness and mindlessness arising from willingly drinking of intoxicants and using of narcotics and psychedelic materials and the like shall not bar punishment, save where it is established that the perpetrator had totally lost control in the course of committing the crime. Yet, where it is established that he had used those materials for the purpose of committing the offense or with the knowledge that it would take place and the offense was in actuality perpetrated, he or she will be sentenced to punishments of both offenses.

Article 155

Ignorance of law is not a bar to punishment of the perpetrator (*ignorantia legis neminem excusat*), save where acquiring knowledge was normally impossible for her/him, or where ignorance of law was religiously deemed to be an excuse.

Note

Lack of knowledge about the type and amount of punishment shall not be a bar to punishment.

Article 156

Wherever a person commits a conduct criminalized by law while defending her/his life, honor, close relatives' chastity, and her/his own or others' property or physical freedom against any type of transgression or existing or eminent danger, after having gone through the stages of defense, he or she will not be punished, should the following conditions be met altogether:

- a. The conduct committed was necessary for repulsing the transgression or danger;
- b. Defense was justified by reasonable indications and rational fear;
- c. The danger and transgression were not caused by informed action or transgression of the person himself/herself and defense of the other;
- d. Recourse to governmental forces was virtually impossible without losing time, or their interference was ineffective in repulsing the transgression and danger.

Note 1

Defending the life, chastity, honor, property and physical freedom of another person shall be authorized where he or she is a close relative of the defender; the responsibility for defending him or her is vested in the defender; he or she is unable to defend herself/himself, or to seek help, or is in a situation that has no possibility of seeking help.

Note 2

Where the presumption of defense is established, but satisfaction of requisites thereof has not been proven, the onus of proof lies upon the transgressor to establish that such conditions were not met.

Note 3

Wergild will not be payable in cases of legitimate defense, too, save in case of defense against an insane assault, where wergild will be paid out of the public treasury.

Article 157

Resistance against the police and other law enforcement officers of the Judiciary at the time when they are on duty is not considered as defense. However, defense will be allowed when the said forces act *ultra vires* and it is feared, based on the existing evidence and indications, that their operations may result in murder, wound, dishonor, and rape or property encroachment.

Article 158

In addition to the instances mentioned in the preceding Articles, perpetration of a conduct criminalized under the law is not punishable in the following cases:

- a. Where commitment of the conduct is commanded in or authorized by law;

- b. Where commitment of the conduct is required for implementation of a more significant law;
- c. Where commitment of the conduct is at the lawful order of the competent authority, and the said order is not illegitimate;
- d. Measures by the parents and legal guardians and custodians of minors and insane persons taken for correcting or protecting them, provided that such measures are within reasonable range and conform to the canonical limits of correction and protection.
- e. Sport operations and incidents resulting there from, provided that the incidents have not been caused by breach of the regulations pertaining to that sport, and that those regulations do not contravene principles of religion.
- f. Any type of legitimate surgery operation or medical operation that are performed with the consent of the person or her/his parents, custodians, or legal representatives, and in compliance with technical and scientific standards and governmental regulations. In emergency situations obtaining consent shall not be necessary.

Article 159

Wherever a crime is committed at the order of an official authority, both the commanding superior and the subordinate will be sentenced to the punishment prescribed in law. Nevertheless, the subordinate who has considered the order of the commanding superior acceptable, by error, and who has executed the same, perceiving that it was lawful, shall not be punished, and in respect of wergild and civil liability, the matter shall be governed by the respective provisions.

PART FIVE: EVIDENCE IN CRIMINAL MATTERS

Chapter One: General Provisions

Article 160

Evidence for proving perpetration of an offense constitutes confession, testimony, compurgation and oath in the instances prescribed by law, and the judge's personal knowledge of facts.

Note

The provisions and conditions of compurgation that are valid for proving or rejecting talion and wergild shall be in accordance with the provisions laid down in Talion and Wergild Books of this law.

Article 161

In the instances where a criminal complaint may only be proven by canonically prescribed evidence such as confession and testimony, the judge issues sentence on the basis thereof, save where he has knowledge to the contrary.

Article 162

Where a type of evidence that is the only canonically accepted proof in respect of a crime lacks the canonical and legal prerequisites to be relied upon as evidence, it can be used as judicially accepted presumption, provided that when taken into account together with other indications and presumptions would produce knowledge for the judge.

Article 163

Should after execution of a sentence the evidence proving commitment of an offense become invalidated, for example, if it becomes clear in the court that the criminal was another person or that no offense had been committed and the accused owing to execution of the sentence sustained body injury, loss of life, or monetary damage, the persons to whom infliction of the said injury or damage was attributable, including the sworn witness, complainant or witness, as the case might be, will be sentenced to talion, payment of wergild or discretionary punishment laid down in law and to compensation of financial damage.

Chapter Two: Confession

Article 164

Confession constitutes giving information by a person on perpetration of an offense by herself/ himself.

Article 165

Statements of an attorney against his/ her client and those of a natural guardian and a custodian against his/her ward shall not be deemed to be confession.

Note

Confession to commit an offense is non-delegable.

Article 166

Confession shall be made either verbally or in writing, and where it is impossible to do so, by doing certain deeds, such as by pointing; and at any rate, it shall be clear and unambiguous.

Article 167

Confession shall be definite; and, contingent and conditional confession shall not be valid.

Article 168

Confession will be valid, if the confessing person is sane, of full age, intending to make the confession, and of free will and volition.

Article 169

Any confession made under duress, coercion, torture, and/or mental or physical harassment and molestation shall have no value and credit; and the court shall interrogate the accused, again.

Article 170

Confession of a spendthrift person, whose interdict has been issued, and a bankrupt person shall be valid if concerning criminal matters; but his admission lacks validity in respect of the financial liability arising from an offense.

Article 171

Where an accused confesses to having committed an offense, her/his confession shall be credible and there will be no turn for other evidence to be considered, save where the trial judge, having investigated the matter, finds that indications and presumptions are contrary to the content of the confession, in which case the court will make the investigation and examination required, and will mention conflicting indications and presumptions in the judgment.

Article 172

A single confession shall suffice in respect of all offenses, save in respect of the following offenses where the number of confessions required are as follows:

- a. Four times for fornication (adultery), sodomy, **intercrural (interfemoral)** sex and **tribadism**;
- b. Twice for drinking intoxicants, **panderism**, false accusation of fornication (adultery), and larceny punishable by fixed corporal punishment.

Note 1

One time confession shall suffice for establishing **noncriminal** aspect of an offense.

Note 2

In the instances where multiple confessions are required, the confession may be made in one or more sessions.

Article 173

Denial after confession will not result in setting aside the punishment, save in respect of an offense the punishment of which is stoning to death or execution as a fixed corporal punishment, in either of which upon denial at any stage, even in the course of enforcement, the said punishment shall be set aside and in place thereof, one hundred lashes shall constitute the punishment in confession to adultery (fornication) and to sodomy, and fifth degree discretionary punishment in confession to any other offense.

Chapter Three: Testimony

Article 174

Testimony constitutes giving information by a person other than the parties to a claim on commission or non-commission of an offense by an accused, or on any other matter, before a judicial authority.

Article 175

Divine law testimony is a testimony that the divine lawgiver has recognized as valid and of evidentiary value, regardless of whether it leads to knowledge of facts or not.

Article 176

Where a witness does not have the requisite conditions prescribed by the divine law, her/his statements will be heard. It is for the court to determine the extent of effect and value of those statements as judicial presumption on the judge's knowledge of facts.

Article 177

Under the divine law, a witness shall have the following conditions at the time of giving evidence:

- a. Maturity;
- b. Sanity;
- c. Faithfulness;
- d. Virtuousness;
- e. Legitimacy by birth;
- f. Lack of interest in the subject matter of testimony;
- g. Lack of hostility against the parties or either party;
- h. Non-engagement in beggary;
- i. Not being a vagabond.

Note 1

The conditions subject matter of this Article shall be established by the judge.

Note 2

As to the requisite concerning hostility, the testimony will be admitted where it is in favor of the adversary.

Article 178

Testimony by a periodic lunatic in the state of sanity shall be admitted, provided that he or she was also in the state of sanity when witnessing the facts subject matter of testimony.

Article 179

Where a witness was a discerning minor when witnessing the facts subject matter of testimony, but reaches the full age at the time of giving evidence, her/his testimony shall be valid.

Article 180

Evidence given by abnormal persons such as absent-minded and habitually negligent persons shall not be valid as a testimony admissible under the divine law, save where the judge is certain that there is no forgetfulness, neglect and the like in respect of the subject matter of testimony.

Article 181

Virtuous is a person who, according to the judge or any person attesting to her/his virtuosity, is not sinful. Testimony of a person known for sinfulness, committing mortal sins, or insisting on committing venial sins shall not be admitted, until a time when change

in her/his actions and ascertainment of her/his qualification and virtuosity are established.

Article 182

Under the divine law on testimony, in cases where there is more than one witness, the subject matter of testimony shall be identical, and the purports of testimonies shall be the same in terms of specifications affecting proof of offense commission. Where divergence in testimonies results in contradiction or where it impairs identicalness of the subject matter, the evidence will not be considered a testimony under the divine law.

Article 183

Evidence shall be given based on certainty and certitude in a manner that it shall be founded on concrete matters and through reasonable means.

Article 184

Evidence shall be given either verbally or in writing, and where it is impossible to do so, by doing certain deeds, such as by pointing; and at any rate, it shall be clear and without ambiguity.

Article 185

In case of conflict between two testimonies given under the divine law neither will be credible.

Article 186

Where it is impossible for the witness to be present in person, evidence shall be valid in writing, live audio-video and/or recorded

forms, upon establishing that the requisites are met, and that the attribution is verified.

Article 187

Under the divine law on testimony, there shall be no certainty about facts counter to the purport of the testimony. Where there are indications and presumptions running counter to the purport of a testimony, the court will make due investigation and consideration; and if it finds that the testimony is perjured, the testimony shall not be valid.

Article 188

Hearsay evidence under the divine law on testimony will be valid only where the primary witness has passed away or where his presence is impossible in view of her/his absence, illness and the like.

Note 1

Hearsay witness shall meet conditions for qualification laid down for the main witness.

Note 2

Testimony regarding the purport of a hearsay testimony shall not be valid.

Article 189

Commission of offenses punishable by fixed corporal punishment and by discretionary punishment may not be established via hearsay evidence. However, talion, wergild and civil liability are provable by hearsay evidence.

Article 190

In case the primary witness, after secondary witnesses have given evidence and before the sentence is issued, impugns the testimony, the testimonies of secondary witnesses will be invalidated. However, **impugnement** after issuance of the judgment shall be of no effect.

Article 191

Every witness under the divine law on testimony shall be challengeable and verifiable. Challenge of a witness constitutes asseveration regarding lack of one of the qualification requisites prescribed by the divine law for a witness; and verification means giving evidence confirming that the qualification requisites laid down by the divine law for a witness are met.

Article 192

A judge is required to point out to the parties that they shall have the right to challenge and verify credibility of a witness.

Article 193

Witness challenging shall be made before her/his testimony, save where causes of challenge becomes known after he or she has given evidence, in which case, challenge may be made before issuance of judgment. And, at any rate, the court shall be required to examine the subject matter of challenge and to make decision in respect thereof.

Article 194

Where a divine law witness is rejected by the judge or is challenged, the party claiming her/his competence may adduce evidence to prove that he or she is qualified.

Article 195

In establishing challenge or verification of credibility of a witness, it is not required to state causes thereof, and mere attestation of credibility or challenge shall suffice, provided that the witness satisfies the requisites laid down by law.

Note

In establishing or denying virtuosity, the witness shall have knowledge of virtuosity or lack thereof; and mere good appearance shall not be sufficient for establishing virtuosity.

Article 196

Where attestations of the witnesses presented for establishing challenge or verifying credibility of a witness contradict, such testimonies lack in validity.

Article 197

The court will accept the testimony, where it finds the presented witnesses to be legally qualified. Otherwise, it will not deem the testimony to be a divine law testimony. And, where it has no information about the conditions of the witnesses, it will stay the proceedings until the time when their qualifications will have been established and their condition will have been detected, which shall not take more than ten days; and then, it will enter decision, as the case might be, save where the judge considers that it will not be possible to establish the condition within ten days.

Article 198

Withdrawal of testimony before punishment is enforced will invalidate the testimony; and reinstatement of a testimony after withdrawal shall not be admissible.

Article 199

For perpetration of all offenses to be established there shall be required testimonies of two male witnesses, save in respect of fornication, sodomy, illegitimate **intercrural** (**interfemoral**) sex, and **tribady**, which shall be established by the testimonies of four men. For establishing commission of fornication punishable by flogging, head shaving and/or banishment, Testimonies of two men and four women shall suffice. Where punishment is other than those stated, testimonies of at least three virtuous men and two virtuous women shall be required. In that case where two virtuous men and four virtuous women testify to commitment thereof, only sentence to fixed corporal punishment of flogging will become allowed. Offenses punishable by wergild may also be established by testimony of a male witness and two female witnesses.

Article 200

As to the testimony regarding fornication or sodomy, the witness should have eye-witnessed the act constituting fornication or sodomy; and where testimony is not supported by eye-witnessing, also where the witnesses does not reach the requisite number, the act of testimony regarding fornication or sodomy shall be deemed to be false accusation of fornication (adultery) /sodomy, and will be punishable by the fixed corporal punishment.

Chapter Four: Oath

Article 201

Oath means calling upon the God to witness the truth of statements of the sworn witness.

Article 202

The person taking an oath shall be sane, of full age, intending and of free will.

Article 203

The oath shall be taken in accordance with the Court's writ and by using the most exalted name of God, i.e. swearing to Allah, making an oath to Allah, vowing to Allah, or the Almighty God's name in other languages. And, where amplification of an oath is required and the sworn witness accepts it, the court will determine manner of taking it in terms of time, place, words to be used, and the like. At any rate, there shall be no difference between Muslims and non-Muslims in taking oath by swearing to the Almighty God.

Article 204

The oath shall accord to the assertion, shall be expressive in meaning, unequivocal, and taken based on certitude and conviction.

Article 205

Oath shall be in words; and where it is impossible to be made in words, it may be made by writing or by pointing that clearly shows the intent.

Article 206

In the instances where pointing is not understood, or where the judge does not know the language of the sworn witness, and/or where the

sworn witness is not able to talk, the court shall find her/his purpose through a translator or through a specialist in the matter.

Article 207

Oath is of effect only in respect of the parties to a claim and their locum tenens.

Article 208

Perpetration or not of offenses punishable by fixed corporal punishments and discretionary punishments may not be found by oath. However, perpetration of offenses punishable by talion, wergild, and indemnity for body injury, and damage arising from offenses may be proven by swearing, in accordance with the provisions of the present law.

Article 209

Where in monetary claims, such as complaints seeking wergild for felonies, as well as claims for receiving money such as negligent and quasi malicious crimes, it is impossible for the private plaintiff to produce evidence acceptable under the divine law, he or she may establish her claim only from the monetary aspect, by introducing a male witness or two female witnesses, in addition to an oath.

Note

In the instances stated in this Article, initially, the qualified witness testifies, and then, the plaintiff will take the oath.

Article 210

Where it is established that a swearing was false and/or the sworn witness lacked the legal requisites, no weight shall be given to the oath.

Chapter Five: Judge's Personal Knowledge of Facts

Article 211

Personal knowledge of judge constitutes the conviction emanated from clear evidence regarding the matter brought before him. In the instances where a sentence is founded on the personal knowledge of the judge, he shall expressly state the clear indications and presumptions on which his personal knowledge is based.

Note

The judge's personal knowledge may be founded on matters such as expert opinion, crime scene inspection, statements of the informed persons, reports of law enforcement officers, and other typically convincing indications and presumptions. At any rate, mere deductive knowledge, which does not typically create conviction for a judge, may not form the basis for rendering a sentence.

Article 212

Where the judge's personal knowledge is in conflict with other legally acceptable proofs, those proofs will not be credible for the judge, if the clear knowledge stands intact; and the judge will render the sentence, stating the evidence on which his knowledge is founded, and the reasons for refuting other proofs. Where no personal knowledge is obtained by the judge, legally acceptable proofs shall be credible, and judgment shall be rendered on the basis thereof.

Article 213

In cases of conflict of evidence, confession shall prevail over divine law testimony, compurgation and oath taking. Divine law testimony shall also supersede over compurgation and oath taking.

PART SIX: MICELLANEOUS ISSUES

Article 214

The offender shall retribute to the owner the property that he or she has acquired as a result of committing the crime, by restituting to the owner the property itself, if existing; making restitution in kind, if the property itself is not existing; and paying the price thereof, if restitution in kind is not possible, and shall also pay compensation for the damage sustained. Where from the penal aspect, the offender is sentenced to payment of an amount, restitution of the properties or imbursement of damages to private plaintiffs shall be given priority over that sentenced payment.

Article 215

When issuing an order of non suit or writ of *nolle prosequi*, the investigating magistrate or the public prosecutor shall make decision regarding disposal of the discovered objects and properties, which were evidence of perpetration or instrument of crime and/or which were acquired from or used and/or allocated to be used during perpetration of the crime, by having them returned, seized or annihilated, as the case might be. As to seizure, the court will dispose of the properties and objects. The investigating magistrate and/or public prosecutor shall also order return of the said properties and objects, at the request of the beneficiary and subject to the following conditions:

- a. There are the whole or part of objects and properties, which are not required in investigation or trial;
- b. There is no conflict of interest in objects and properties;
- c. They are not among objects and properties that ought to be seized or destroyed.

In all criminal matters, the court also while issuing a judgment or a writ, whether concerning conviction, acquittal or *nolle prosequi*, or thereafter, shall issue a judgment concerning return, seizure or elimination of objects and properties, which were instrument of crime and/or which were acquired as a result of a crime, or used and/or allocated to be used in the course of perpetration.

Note 1

Every person who has sustained a loss as a result of a writ issued by the investigating magistrate or the public prosecutor, or from a writ or judgment of the court, may appeal from their decisions in respect of the objects and properties mentioned in this Article, and pursue her/his claim and make appeals, in accordance with regulations before criminal courts, even where the writ or judgment of the court is not **appealable** with regard to the criminal matter.

Note 2

Any property, maintenance of which requires incurrence of unreasonable cost for the Government, or which causes destruction or tremendous fall in its value, and preservation of which is not necessary for litigation, as well as perishable and rapidly deteriorating properties, as the case might be, will be sold by the order of the public prosecutor or the court at the market price, and the proceeds earned there from will be kept in the Judiciary's Trust Fund, pending final decision in respect thereof.

Article 216

Enforcement of fixed corporal punishment, talion, and discretionary punishment sentences shall be in accordance with a bylaw that will be prepared and served within six months from the date of entry into force of the present law.

BOOK TWO: FIXED CORPORAL PUNISHMENTS

PART ONE: GENERAL PROVISIONS

Article 217

Concerning crimes punishable by fixed corporal punishment, the perpetrator shall be held liable, where in addition to having knowledge and malice, and meeting requisites for criminal liability, he or she was also aware that the committed act was illegitimate under the divine law.

Article 218

As regards the crimes punishable by fixed corporal punishment, where the perpetrator alleges lack of knowledge or malice on his or her part, or existence of any of the barriers to criminal liability at the time of perpetration of the crime, should there be a probability that her/his statement might have been right, and should he or she allege that her/his confession was obtained by threat, intimidation or torture, the said allegation shall be accepted, without requiring production of evidence or oath swearing.

Note 1

As regards the crimes of rebellion against God and corruption on earth, and in respect of crimes against chastity accompanied by violence, coercion, abduction or deceit, mere allegation shall not cause fixed corporal punishment to be quashed; and the court shall be required to examine the matter and to conduct investigation.

Note 2

Confession will be credible under the divine law, if made before a judge in court.

Article 219

The court may not change manner, type and extent of fixed corporal punishments or mitigate, convert, or quash punishments. These punishments may be quashed, mitigated or commuted only by repentance and amnesty in the manner prescribed in the present law.

Article 220

As regards discretionary punishments not mentioned in the present law, action shall be taken in accordance with Principle 167 of the Constitution.

PART TWO: CRIMES PUNISHABLE BY FIXED CORPORAL PUNISHMENT

Chapter One: Fornication

Article 221

Fornication is the coitus of a man and a woman without marital tie, where it is not an instance of sexual intercourse under mistaken identity.

Note 1

Coitus is done by penetration of genital organ of a man into vagina or anus of a woman up to foreskin.

Note 2

When both parties are, or either of them is underage, fornication has been committed. However, the minor will not be punished, and will be sentenced to security and corrective measures laid down in Book One of the present law.

Article 222

Sexual intercourse with a dead person shall constitute fornication, save sexual intercourse of a husband with his demised wife, which does not constitute fornication, but which makes him subject to thirty-one to seventy-four lashes of the sixth degree.

Article 223

Whenever a person accused of fornication asserts to have marital tie or to have had sexual intercourse under mistaken identity, her/his assertion will be accepted without evidence or oath swearing, save where the contrary is established by divine law proof.

Article 224

In the following instances, death penalty is the fixed corporal punishment for adultery:

- a. Incest (fornication with blood relatives);
- b. Adultery with stepmother, which makes the adulterer subject to death penalty;
- c. Adultery of a non- Muslim man with a Muslim woman, which makes the adulterer subject to execution;
- d. Forcible adultery or adultery by coercion, which makes the adulterer subject to execution.

Note 1

The punishment of the adulteress under Paragraphs b. and c. above shall be as laid down in other ordinances pertaining to fornication.

Note 2

Where a man rapes a woman who does not consent to fornicate with him, in the state of anesthesia, sleep or intoxication, his act shall be tantamount to forcible fornication. The same applies to fornication by deceiving and seducing an underage girl, or by abduction, threat and/or intimidation of a woman, even where such acts end in her submission.

Article 225

Lapidation shall be the fixed corporal punishment of a married adulterer and a married adulteress. Where execution of lapidation is not possible, the married adulterer and the married adulteress will be subjected to death penalty upon suggestion of the final judgment issuing court and agreement of the Judiciary Chief, if the crime is established by evidence. And, otherwise, it will make either subject to one hundred lashes.

Article 226

The state of being married in each of man and woman is realized as follows:

- A. The state of being married in a man means that he has a permanent wife of full age, with whom he has had sexual intercourse in vagina at a time when he was major and sane, and may have vaginal intercourse with her, anytime that he so wishes.
- B. The state of being married in a woman means that she has a permanent husband of full age, with whom she has had sexual intercourse in vagina at a time when she was major and sane, and has the possibility of having vaginal intercourse with the husband.

Article 227

Conditions such as travel, incarceration, menstruation, post natal bleeding, disease preventing coitus, or disease putting the sex partner in risk, such as HIV disease and syphilis make the couple out of married state.

Article 228

As regards incest (fornication with blood relatives) and adultery, where adulteress is major and the adulterer is underage, the punishment of the adulteress shall be only one hundred lashes.

Article 229

The punishment of a man who has a permanent wife, if he commits fornication, before having coitus (with the wife), shall be one hundred lashes, head shaving, and banishment for the period of one lunar year.

Article 230

The fixed corporal punishment of fornication, where the perpetrator is unmarried, shall be one hundred lashes.

Article 231

In the instances of forcible fornication and those tantamount thereto, where the woman was a virgin, the perpetrator will be also convicted to payment of wreath money and proper dower; and, where she was not a virgin, he will be only sentenced to the punishment and payment of proper dower.

Article 232

Where a man or a woman confesses to having made fornication for less than four times, he/she will be sentenced to sixth degree discretionary punishment of thirty-one to seventy-four lashes. The same shall also apply to sodomy, **intercrural** (**interfemoral**) sex and **tribadism**.

Chapter Two: Sodomy, **Intercrural (Interfemoral) Sex, and Tribadism**

Article 233

Sodomy constitutes penetration of genital organ up to foreskin of a man into anus of a male human.

Article 234

The fixed corporal punishment of the bugger, in case of using force or coercion, or being in married state shall be death penalty; and otherwise will be one hundred lashes. The fixed corporal punishment of the sodomized person in any case (being in a married state or not) shall be death penalty.

Note 1

Where the bugger is a non-Muslim and the sodomized person is a Muslim, the fixed corporal punishment of the bugger shall be death penalty.

Note 2

Married state means that the man has a permanent wife of full age, with whom he has had sexual intercourse in vagina when she was major at a time when he was sane and major, and has the possibility of having vaginal intercourse with her, anytime that he so wishes.

Article 235

Intercrural (**interfemoral**) sex means placing genital organ of the man between thighs or buttocks of a male human.

Note

Penetration of less than up to the foreskin is tantamount to **intercrural** (**interfemoral**) sex.

Article 236

The fixed corporal punishment of the active and passive sexual partners in **intercrural** (**interfemoral**) sex is one hundred lashes; and, in this respect, there shall be no difference between married and unmarried persons and forcible and non-forcible acts.

Note

Where the active sexual partner is a non-Muslim and the passive sexual partner is a Muslim, the fixed corporal punishment of the active sexual partner is execution.

Article 237

Homosexual acts of male human, other than sodomy and **intercrural** (**interfemoral**) sex, such as kissing and touching out of lust will be subjected to thirty-one to seventy-four discretionary lashes of the sixth degree.

Note 1

The provision of this Article equally applies to female human.

Note 2

The provision of this Article does not apply to instances subject matter of fixed corporal punishment under the religion.

Article 238

Tribadism means that a female human places her genital organ on genital organ of another human of her gender.

Article 239

The fixed corporal punishment of **tribadism** is one hundred lashes.

Article 240

In the fixed corporal punishment of **tribadism**, there shall be no difference between the active and the passive lesbian partners; Muslim and non-Muslim; married and unmarried; and forcible and non-forcible acts.

Article 241

Where no legally credible evidence showing perpetration of crimes against chastity is available, and the perpetrator denies it, any type of investigation and interrogation for detecting hidden matters and those which are concealed from public view shall be prohibited. The instances where there is a probability of perpetration by use of force, coercion, harm, abduction or deceit or the instances that under the present law are tantamount to forcible penetration shall be excluded from the ambit of this provision.

Chapter Three: Panderism

Article 242

Panderism constitutes causing two or more persons to reach each other for fornication or sodomy.

Note 1

Imposition of the fixed corporal punishment of panderism shall be subject to consummation of fornication or sodomy. Otherwise, the procurer shall deserve the discretionary punishment laid down in Article 244 of the present law.

Note 2

As regards panderism, repetition of act is not an element of perpetration of crime.

Article 243

The fixed corporal punishment of any man engaged in panderism shall be seventy-five lashes, and should it be committed for the second time, banishment up to one year at the discretion of the judge, in addition to seventy-five lashes. The fixed corporal punishment of a woman engaged in panderism shall be seventy-five lashes, only.

Article 244

A person who causes two or more underage persons to reach each other for fornication or sodomy shall not deserve fixed corporal punishment; however, he or she will be sentenced to thirty-one to seventy-four lashes and sixth degree discretionary incarceration.

Chapter Four: False Accusation of Fornication (Adultery)/ Sodomy

Article 245

False accusation of fornication (adultery)/ sodomy constitutes accusing another person, even a dead person, of fornication or sodomy.

Article 246

False accusation of fornication (adultery)/ sodomy should have been clear and unambiguous; the accuser should have been knowledgeable of the words; and he or she should have the intent of accusing, even where the victim of false accusation or the addressee is not aware of the purport thereof at the time of false accusation of fornication (adultery)/ sodomy.

Note

False accusation of fornication (adultery)/ sodomy may be perpetrated, even by electronic method.

Article 247

Any person who states to her/his legitimate child “you are not my child” and/or states to the legitimate child of another person “you are not your father’s child” has accused their mothers of adultery.

Article 248

Where an indication exists demonstrating that no false accusation was intended, no fixed corporal punishment shall be allowed.

Article 249

Where a person states to the other “you have committed fornication with that woman or sodomy with that man” false accusation will be deemed to have been committed only in respect of the addressee.

Article 250

The fixed corporal punishment of false accusation of fornication (adultery)/ sodomy shall be eighty lashes.

Article 251

False accusation of fornication (adultery)/ sodomy will be punishable by fixed corporal punishment, only where, at the time of false accusation of fornication (adultery)/ sodomy, the accused was major, sane, Muslim, identified, and not proclaiming to do fornication or sodomy.

Note 1

Where the accused is underage, insane, non-Muslim or unidentified, the accuser will be sentenced to thirty-one to seventy-four lashes of sixth degree discretionary punishment. However, accusation of a person proclaiming to do fornication or sodomy is not punishable.

Note 2

Accusing a person proclaiming to do fornication or sodomy of doing what he or she does not proclaim to do, e.g. accusing someone who proclaims to do fornication, of perpetrating sodomy, shall be punishable by fixed corporal punishment.

Article 252

Every person, who with the intent of accusing the other of committing fornication or sodomy, uses words other than fornication or sodomy, expressly incriminating persons such as the spouse, father, mother, sister or brother of the addressee of having committed fornication or sodomy, will be sentenced to the fixed corporal punishment of false accusation of fornication (adultery)/ sodomy, in respect of the person incriminated for fornication or sodomy, and to the punishment for insult, in respect of the addressee, if the latter was annoyed by the incrimination.

Article 253

Every person who incriminates the other of having committed a sort of fornication or sodomy, which is not punishable by fixed corporal punishment, e.g. fornication or sodomy under coercion or in the state of minority, shall be sentenced to thirty-one to seventy-four lashes of sixth degree discretionary punishment.

Article 254

Incrimination of a person of having committed fornication or sodomy, where he or she has already been sentenced for having committed the same fornication or sodomy, prior to repentance of the incriminated person, shall not be punishable.

Article 255

The right to enforce fixed corporal punishment for false accusation of fornication (adultery)/ sodomy is a private right; and prosecution and enforcement of punishment are subject to the complaint of the person falsely accused of fornication (adultery)/ sodomy. Should the person falsely accused of fornication (adultery)/ sodomy remit at any stage, the prosecution, proceeding, and execution of punishment, as the case might be, will be abated.

Article 256

Where a person falsely accuses a number of persons of having committed fornication (adultery)/ sodomy, each separately, independent fixed corporal punishment shall be enforced upon her/him for each false accusation of fornication (adultery)/ sodomy, notwithstanding whether the victims have made joint or separate complaints.

Article 257

Where a person falsely accuses a number of persons of having committed fornication (adultery)/ sodomy, in one statement, each of the said persons may make complaints separately, and should a sentence be entered, apply for enforcement thereof. Where the persons who have been falsely accused of fornication (adultery)/ sodomy make joint complaints, more than one fixed corporal punishment shall not be enforced.

Article 258

Any person who accuses another person of having committed fornication (adultery)/ sodomy on one or more grounds once or more will be sentenced to one fixed corporal punishment, only. However, should he or she recommit false accusation of fornication (adultery)/ sodomy, after enforcement of the fixed corporal punishment, the fixed corporal punishment shall be enforced again; and should he or she state: “whatever I stated was true”, he or she shall be sentenced to thirty-one to seventy-four lashes of sixth degree discretionary punishment.

Article 259

A father or grandfather who accuses her/his son/daughter or grandson/granddaughter of fornication (adultery)/ sodomy shall be sentenced to thirty-one to seventy-four lashes of sixth degree discretionary punishment.

Article 260

Where the fixed corporal punishment is not enforced, and the person incriminated of false accusation of fornication (adultery)/ sodomy has not remitted, the right to apply for enforcement thereof will be inherited by all heirs, with the exception of the spouse; and each heir may seek prosecution and enforcement thereof, even where others have remitted (the perpetrator).

Note

Where the accuser of false accusation of fornication (adultery)/ sodomy is the father or grandfather of the heir, the heir may not seek prosecution and enforcement of the fixed corporal punishment.

Article 261

In the following instances, the fixed corporal punishment for false accusation of fornication (adultery)/ sodomy shall be quashed at any stage of prosecution, proceeding and enforcement that might be:

- a. Where the person falsely accused of fornication (adultery)/ sodomy confirms that the accuser's statement is true;
- b. Where the incrimination is established to be true by testimony or by the judge's personal knowledge of facts;
- c. Where the person falsely accused of fornication (adultery)/ sodomy has remitted, or, if he or she has passed away, her/his heirs, have remised the accuser;
- d. In case of conjugal anathema after false accusation of adultery prior to marriage or where married (where a man that has accused her wife of adultery, confirms his statement by swearing before the divine judge that she had committed adultery, when married or before marriage, and/or that a child born to their marriage was not his, whereby becoming separated from the wife permanently under the divine law);
- e. Where two persons have falsely accused each other of fornication (adultery)/ sodomy, notwithstanding whether the two accusations have been alike or varied.

Note

The punishment laid down for perpetrators under Para. e. shall be sixth grade discretionary punishment of thirty-one to seventy-four lashes.

Chapter Five: Defamation of the Prophet

Article 262

Any person who insults, or falsely accuses the Prophet Muhammad (Peace be upon him) or any of the great divine prophets of fornication (adultery)/ sodomy, is a defamer of the prophet, and shall be sentenced to death.

Note

Falsely accusing any of the sinless Imams (peace be upon them) and/or Hazrat Fatema (peace be upon her) of fornication (adultery)/ sodomy or insulting them shall be tantamount to defamation of the prophet.

Article 263

Where a person accused of defamation of the prophet asserts that her/his statements were made by coercion, negligence, inadvertence, in the state of intoxication, exasperation, by blunder, or without paying attention to the meanings of the words, or that in doing so he or she was quoting another person, he or she shall not be deemed to be a defamer of the prophet.

Note

Where defamation has been made in the state of intoxication or exasperation or where it has been a quotation of others, and constitutes an insult, it shall be punishable by up to seventy-four lashes.

Chapter Six: Use of Intoxicant

Article 264

Use of intoxicants, e.g. by eating/drinking, injecting, smoking, in small or large amounts, in solid or liquid shapes, whether intoxicating

or not, being pure or mixed with something else in such manner that does not make it non-intoxicant, shall be punishable by fixed corporal punishment.

Note

Drinking beers shall be punishable by fixed corporal punishment, even where it does not cause drunkenness.

Article 265

The fixed corporal punishment for use of intoxicant shall be eighty lashes.

Article 266

Non-Muslim will be sentenced to fixed corporal punishment, only if using intoxicants in public.

Note

Where using intoxicants by a non-Muslim has not been in public, but the perpetrator appears drunk in public roads or places (public intoxication), he or she will be sentenced to the punishment laid down for public ally committing a divinely forbidden act.

Chapter Seven: Larceny**Article 267**

Larceny constitutes stealing the property belonging to another person.

Article 268

Larceny shall be punishable by fixed corporal punishment, where it meets all of the following requisites:

- a. The object of larceny shall be of value, under the divine law;
- b. The stolen property should have been in an enclosed place;
- c. The thief should have broken in;
- d. The thief should have taken the property out of the enclosed place;
- e. The break in and the theft should have been, clandestinely;
- f. The thief should not have been the father or the grandfather of the owner of the property;
- g. The stolen property at the time it is taken out of the enclosed place should have equaled 0.1953125 grams of coined gold in value;
- h. The stolen property should not have been governmental or public property; public endowment; and/or property endowed for the benefit of the public;
- i. Larceny should not have been committed at the time of famine;
- j. The owner of the property should have made a complaint against the thief before the judicial authority;
- k. The owner of the property should not have remised the thief, before commission of larceny was established;
- l. The stolen property would not have been acquired by the owner, before commission of larceny was established;
- m. The stolen property would not have been acquired by thief before perpetration of the crime was established.
- n. The stolen property had not been already stolen or usurped.

Article 269

Enclosed place means any appropriate place in which a property reasonably remains immune from theft.

Article 270

Where the place of maintaining a property has been usurped from someone, it shall not be considered an enclosed place, so far as her/him and persons who have access to that place on her/his behalf are concerned.

Article 271

Break-in constitutes unauthorized encroachment upon an enclosed place, which may be fulfilled by destroying a wall or climbing it, or by opening or breaking a lock, and the like.

Article 272

Any person who takes out a property via an insane, an undiscerning child, or animal or by any other means shall be deemed to have been a perpetrator; and, where the perpetrator is a discerning child, the principal's conduct shall be considered to be a larceny punishable by discretionary punishment.

Article 273

Where a property is located in various enclosed places, the criterion shall be taking out from the outermost enclosed place.

Article 274

Stealing of property in the minimum amount to be considered larceny should have occurred in one larceny.

Article 275

Where two or more persons have jointly stolen a property, the share of each separately should have amounted to the minimum required.

Article 276

Larceny, should it lack one of the conditions required in order to become punishable by fixed corporal punishment, shall be considered to be a theft punishable by discretionary punishment.

Article 277

Where a partner or holder of a right steals in excess of her/his own share, he or she will deserve fixed corporal punishment.

Article 278

The fixed corporal punishment of larceny shall be as follows:

- a. For the first time, amputation of four fingers of the right hand of the thief to the end in such manner that the thumb and palm of the hand remain.
- b. For the second time, amputation of the left foot from the end of the foot knob in such manner that a half of the sole and part of the place of anointing for ablution remain.
- c. For the third time, life imprisonment;
- d. For the fourth time, death penalty, even where larceny is committed in prison.

Note 1

Where the thief lacks the organ for amputation, he or she will be subjected to one of theft discretionary punishments.

Note 2

As to Paragraph c. and other incarcerations that do not fall under the rubric of discretionary punishment, if the perpetrator repents in the course of enforcement of the punishment and the Leader finds her/his release to be expedient, he or she will be released by his pardoning.

The Leader may also commute her/his punishment to another discretionary punishment.

Chapter Eight: Armed Violation of the Public Security

Article 279

Armed violation of the public security means drawing weapons with the intent of taking life, property or a female member of the people, or threatening them, in such manner that results in insecurity in the environment. Where a person draws weapon on one or more specific person(s) on personal motive, and his or her act has no public aspect, as well as where a person draws weapon on the people, but owing to inability does not create insecurity, he or she will not be deemed to be an armed violator of the public security.

Article 280

A person or a group of persons who take (s) up arms for defending and fighting against armed violators of public security shall not be deemed to be violator(s) of public security.

Article 281

Highwaymen, thieves and traffickers, who use arms and create insecurity among people and in roads, shall be deemed to be armed violators of public security.

Article 282

The fixed corporal punishment for armed violation of the public security shall be one of the following penalties:

- a. Death penalty;

- b. Crucifixion;
- c. Amputation of the right hand and left foot;
- d. Banishment.

Article 283

Choice of any of the four punishments laid down in Article 282 shall be at the discretion of the judge.

Article 284

Term of banishment shall not be less than one year, at any rate, even though the armed violator of public security repents after arrest. And, he or she shall remain banished, should he or she do not repent.

Article 285

Where banished, the armed violator of public security shall be kept under surveillance, and shall not have socialization, association and social contacts with others.

Chapter Nine: Armed Rebellion and Corruption on Earth

Article 286

Any person who widely commits crimes against physical integrity of persons, crimes against internal or external security of the country, criminal libel, disorder in the State economic system, arson and annihilation, dissemination of toxic, microbial, and hazardous matters, or establish debauchery and prostitution centers, or who becomes accessory thereto, in a manner that causes severe disorder in the public order of the country, creates insecurity or inflicts substantial damage upon physical integrity of persons or public and private properties, or

that causes widespread propagation of corruption or prostitution shall be deemed a corrupt on the earth, and will be sentenced to death.

Note

In case the court, based on the evidence and indications as a whole, does not find an intent to make widespread disorder in the public order, to create insecurity, to inflict substantial damage, and/or to propagate corruption or prostitution extensively; and/or where awareness of effectiveness of the measures taken is not established for the court, and where the crime committed is not punishable by another legally prescribed punishment, the perpetrator shall, depending on the extent of damaging results of the crime, be sentenced to discretionary incarceration of the fifth or sixth degree.

Article 287

Any group that makes armed rebellion against the foundation of the system of the Islamic Republic of Iran shall be deemed to be rebel. And, should it use arms, its members will be sentenced to death penalty.

Article 288

Where Members of a rebel group had been arrested before engagement in armed conflict and use of arms, should there be an organization and a center for the group, they will be sentenced to discretionary punishment of the third degree. And where their organization and center have been demolished, they will be sentenced to discretionary punishment of the fifth degree.

BOOK THREE: TALION
PART ONE: GENERAL PROVISIONS

Chapter One:
Types and Definitions of Felonies

Article 289

Felonies against life, organ and benefit are classified into three categories of premeditated crime, quasi crime, and offense by negligence.

Article 290

In the following instances, a felony is deemed to be premeditated:

- a. Where the perpetrator, having conducted an act (*actus reus*), had the intent (*mens rea*) of committing a felony against a definite person or persons or against indefinite person (s) of a group of people, and in actuality also, the intended felony or the like was committed, whether or not the act conducted would typically cause commission of the felony or the like;
- b. Where the perpetrator deliberately fulfils an act that ordinarily amounts to a felony or the like, even where s/he has no *mens rea* for committing that felony and the like, but knew and was aware that such act would ordinarily amount to a felony and the like;
- c. Where the perpetrator had no *mens rea* for perpetrating the felony committed or the like, and the fulfilled act though if

committed against normal persons would not ordinarily amount to felony and the like, but owing to disease, weakness, agedness or any other condition, and/or due to special place and time conditions thereof would typically amount to a crime or the like when committed against the victim, provided that the perpetrator was aware and mindful of the unusual condition of the victim or the special place and time conditions.

- d. Where the perpetrator had the *mens rea* to commit the felony committed or the like, without intending to perpetrate it against a definite person or group of people, and the intended felony or the like was in actuality perpetrated, such as where s/he planted a bomb in public places.

Note 1

As to Paragraph b., lack of awareness and mindfulness shall be established; and where it is not established, the felony shall be deemed to have been premeditated, save where the felony occurred due to the high sensitivity of the spot injured and the high sensitivity of the injured spot was commonly unknown, in which case the awareness and mindfulness of the perpetrator shall be proven; and should it not be proven, the premeditated felony will not be established.

Note 2

As to the provision of Paragraph c., the awareness and mindfulness of the perpetrator of the fact that the act against the victim will typically result in perpetration of felony or the like ought to have been proven. Otherwise, the premeditated felony will not be established.

Article 291

In the following instances, felony shall be deemed to be quasi **delict**:

- a. Where the perpetrator intended to do an act, but did not have the *mens rea* to commit the felony occurred or the like, and the act was not one of the instances falling under the ambit of the definition of premeditated felony;
- b. Where the perpetrator was ignorant of the matter, e.g. when he or she had committed a crime against the victim, believing that the subject matter of his/her action was an object or animal or persons falling under Article 302 of the present Code, but subsequently it is established that it was otherwise.
- c. Where the felony is committed due to the perpetrator's fault, provided that the felony committed or the like does not fall under the ambit of a premeditated felony definition.

Article 292

In the following instances, felony will be deemed to be *culpa fault* (*levissima culpa*):

- a. Where it has occurred in sleep, anesthesia, and the like;
- b. Where it has been committed by a minor and insane;
- c. Where the perpetrator had no *mens rea* to commit that felony against the victim, or the intent to do the act committed against her/him, such as where the perpetrator did shooting with the aim of hunting, but the shot hit a person.

Note

As regards clauses a, b, and c, where the perpetrator is aware and mindful that her/his act will normally cause committal of a felony

against another person, the act will be deemed to have been a premeditated felony.

Article 293

Where a person commits a premeditated felony; but the result of the committed conduct exceeds that intended by her/him, the act will be deemed to have been a premeditated felony in respect of less significant felony, but quasi delict as regards the more significant felony, provided that the act would not fall under the definition of premeditated felonies, such as where a person cuts off one's finger, but as a result, the whole of his/her hand is chopped, or he/she passes away, in which case, the felony will be deemed to have been premeditated in respect of the finger chopping, but quasi delict as regards amputation of hand and/or death.

Article 294

Where a person commits a felony against another person by error in identification, the felony will be deemed to have been a premeditated felony, if both the victim and the respective person do not fall under the ambit of Article 302 of the present Code.

Article 295

Where a person fails to perform an act that he/she has undertaken to do or to discharge a special duty that the law has imposed upon him or her, e.g., where a mother or dry nurse who has undertaken to lactate a baby fails to do so, or where a physician or a nurse fails to discharge his/her legal duty, and a felony is committed due to his/her omission, the commission of the felony is attributed to him/her, if he/she had the ability to perform that act, and the crime shall be deemed to have been

a premeditated felony, quasi delict or culpa fault (levissima culpa), as the case might be.

Chapter Two: Overlap of Felonies

Article 296

Where a person deliberately commits a felony against another person's body organ, and the latter passes away as a result of the felony, the felony shall be deemed to have been a premeditated murder, where the felony occurred falls under the definition of premeditated felonies. Otherwise, it is a quasi delict; and the perpetrator shall be sentenced to pay wergild in respect of the body organ, in addition to talion.

Article 297

Where a person commits a felony against a body organ by inflicting a deliberate strike resulting in murder of the victim, the act shall be deemed to have been murder, if falling under the definition of premeditated felony; and, he/she shall not be sentenced to talion or wergild for causing body organ deficiency or injury resulted in murder.

Article 298

Where a person commits numerous felonies against body organs of a victim, should such felonies altogether cause his/her murder, and the murder too falls under the definition of premeditated murder, the person shall be sentenced to death as the talion by execution, only.

Article 299

Where a person commits several felonies against and murders a victim by numerous strikes, and the murder too falls under the definition of premeditated felonies, in case some felonies engendered murder and the others had no impact on occurrence of murder, the perpetrator will be sentenced to talion for causing body organ deficiency or wergild as the case might be for felonies that had no impact on causing death, in addition to death as the talion by execution. However, where murder is caused by the totality of felonies, the strikes will be tantamount to one strike, if inflicted consecutively. Otherwise, the perpetrator will be also sentenced to talion or wergild for the body organ the felony against which was not immediately followed by death.

Note

The provisions of Articles 296, 297, 298 and 299 also applies to the instances where the committed felony (felonies) spreads to a larger part of the same body organ or to other organs of the victim.

Article 300

Should the victim retaliate, remit or make a settlement in respect of wergild or otherwise on the perception that the inflicted felony will not end in his/her demise, and consequently, the crime affects his/her survival, and results in the death of the victim, the murderer will be sentenced to death as the talion by execution, should the murder fall under the definition of premeditated felonies; and where talion has been enforced against the perpetrator's body organ or a settlement has been made with him/her, the avenger of blood shall pay wergild for the body organ against which talion has been enforced or repay the settlement amount, before enforcing death penalty as the talion by execution. Yet, where the felony does not fall under the definition of premeditated felonies, he/she will be sentenced to payment of wergild

for manslaughter, without taking into account the wergild for causing organ deficiency or the settlement amount received. The provisions of the present Article also applies to the instance where the committed crime spreads to a larger part of the same body organ against which felony was committed.

Chapter Three: General Requisites for Talion

Article 301

Talion may be sentenced, provided that the perpetrator is not the father, or one of the paternal ancestors of the victim; and the victim is sane and equal to the perpetrator in terms of religion.

Note

Where the victim is a Muslim, the fact that the perpetrator is not a Muslim shall not be a bar to talion.

Article 302

Where the victim is of one of the following conditions, the perpetrator shall not be sentenced to talion and payment of wergild:

- a. The perpetrator of an offense punishable by death penalty as the fixed corporal punishment.
- b. The perpetrator of an offense punishable by amputation of an organ, provided that the felony committed would not be severer than his/her fixed corporal punishment. Otherwise, the extent by which felony is severer than fixed corporal punishment will be punishable by talion, and/or wergild and discretionary punishment.
- c. Any person deserving death penalty or amputation of a body organ as talion only in relation to the person holding

the right to enforce talion and to the extent thereof, in which case the holder of the right to talion will not be retaliated against.

- d. The rapist/bugger, if the felony was committed against him by the person who had been about to be raped/sodomized and as a legitimate self defense in the manner laid down in Article 156.
- e. The fornicator/adulterer and the adulteress at the time of fornication/ adultery, as to the adulteress's husband, in the instances other than coercion and duress, in the manner laid down in law.

Note 1

Taking action as regards clauses a, b, and c of this Article, absent an authorization by the court, shall constitute a crime; and the perpetrator shall be sentenced to the discretionary punishment laid down in Book Five: Discretionary Punishments.

Note 2

As to clause d, where legitimate self defense finds application, but exceeds proportionality, no talion may be sentenced. However, the perpetrator shall be sentenced to wergild and discretionary punishment as stated in law.

Article 303

Where the perpetrator alleges that the victim falls under the provision of Article 302 of the present Code in respect of life or body organ, as the case might be, or that he/she has committed a felony against the victim, acting on the same conviction, this allegation shall be established before the court in accordance with principles; and the

court shall be required to initially consider the said allegation. Where it is not established that the victim fell under the provision of Article 302, nor is it established that the perpetrator committed the crime, acting on such conviction, the perpetrator will be sentenced to talion. However, where it is established that he has wrongfully committed felony on this conviction, and the victim does not fall under the provision of Article 302, the perpetrator shall be sentenced to payment of wergild in addition to the punishment laid down in Book Five: Discretionary Punishments.

Article 304

Premeditated felony against an underage shall be punishable by talion.

Article 305

The perpetrator of a premeditated felony against an insane shall be sentenced to the discretionary punishment laid down in Book Five: Discretionary Punishments, in addition to payment of wergild.

Article 306

Premeditated felony against a fetus, even after the soul has entered it, shall not be punishable by talion. In that case, the perpetrator shall be sentenced to the discretionary punishment laid down in Book Five: Discretionary Punishments, in addition to payment of wergild.

Note

Should a fetus be born alive and be capable of surviving, and a felony prior to birth results in its deficiency or death after birth and/or where its deficiency persists after birth, the right to talion will be established.

Article 307

Perpetration of felony during intoxication and lack of psychological equilibrium as a result of misuse of narcotics, psychedelics and the like shall be punishable by talion, save where it is established that owing to intoxication and lack of psychological equilibrium, the perpetrator had totally lost control, in which case, he or she shall be sentenced to the discretionary punishment laid down in Book Five: Discretionary Punishments, in addition to wergild. Yet, should it is established that the perpetrator had in advance intoxicated himself/herself in order to commit that act, or that he or she had the knowledge that his or her intoxication and lack of psychological equilibrium will usually cause him or her to perpetrate that felony or the like, the act shall be deemed to have been premeditated.

Article 308

Wherever after investigation and examination by the judicial authority, there is a question regarding puberty or sanity of the perpetrator at the time of committing the crime, and the avenger of blood asserts that the premeditated felony was committed at the time of maturity and lucid interval of the perpetrator of his or her previous insanity, but the perpetrator asserts otherwise, the *onus probandi* lies upon the avenger of blood to produce evidence. In case no evidence is produced, no talion sentence shall be issued. Where the perpetrator had been in lucid interval prior to the time of committing the felony, in order for talion to be set aside, he or she shall prove to have been in the state of insanity at the time of committing the crime. Otherwise, a right to talion will be established upon swearing of the avenger of the blood or the victim or his/her natural guardian.

Article 309

The assertion that the perpetrator was the father or one of the paternal ancestors of the victim ought to be established in court. Should it not be established, the right to enforce talion will be established upon swearing of the avenger of the blood or the victim or his/her natural guardian, as the case might be.

Article 310

Where a non-Muslim commits a premeditated felony against a Muslim, a Jew, a Christian or a Zoroastrian residing in the Islamic State and paying a fixed tax, a protégé, or a belligerent infidel residing in the Islamic State under protection and paying taxes, a right to talion will be created. In this respect, there shall be no differentiation between religions, tribes and ideological inclinations. Should a Muslim, a Jew, a Christian or a Zoroastrian residing in the Islamic State and paying a fixed tax, a protégé, or a belligerent infidel residing in the Islamic State under protection and paying taxes commits a felony against a non-Muslim other than a Jew, a Christian or a Zoroastrian residing in the Islamic State and paying a fixed tax, a protégé, or a belligerent infidel residing in the Islamic State under protection and paying taxes, no talion will be enforced against the perpetrator. In that case, the perpetrator will be sentenced to the discretionary punishment laid down in Book Five: Discretionary Punishments.

Note 1

Non-Muslims other than Jews, Christians or Zoroastrians residing in the Islamic State and paying a fixed tax, protégés, or belligerent infidels residing in the Islamic State under protection and paying taxes who are nationals of Iran or who have the nationality of other

countries but have entered the country in compliance with the laws and regulations shall be tantamount to protégés.

Note 2

Should the victim be a non-Muslim, and the perpetrator converts to Islam prior to enforcement of talion, the talion will be quashed, and the perpetrator will be sentenced to the discretionary punishment laid down in Book Five: Discretionary Punishments, in addition to payment of wergild.

Article 311

Should after investigation and examination by the judicial authority, there would be a question as to if the victim was a Muslim at the time the felony was committed and he or she had been a nonbeliever in Islam prior to perpetration of the felony, and the avenger of blood asserts that the premeditated felony was committed when the victim was a Muslim, but the perpetrator asserts that committal of the felony antedated his/her conversion to Islam, the assertion of the avenger of blood needs to be established. And, should it not be established, no talion will be enforced, and the perpetrator will be sentenced to the discretionary punishment laid down in Book Five: Discretionary Punishments, in addition to payment of wergild. Where he had been a Muslim prior to the time the felony was committed, for talion to be quashed, perpetration of the felony at a time when the victim had not converted to Islam needs to be established. And, should it not be established, talion will be sentenced upon swearing of the avenger of the blood or the victim or his/her natural guardian. The provision of this Article also applies in case there is a doubt as to insanity of the victim.

Chapter Four: Evidence for Proving Perpetration of a Felony

Article 312

In addition to the proof set forth in Book One (Generalities) of the Present Code, perpetration of a crime may also be established by sworn testimony.

Article 313

Sworn testimony (compurgation) constitutes the oath that, in the absence of other proofs, save compurgation by a denying defendant and existence of reasonable suspicion, the complainant takes in order to establish commission of a premeditated or unpremeditated felony or elements thereof, and an accused person takes in order to discharge himself/herself.

Article 314

Reasonable suspicion means existence of presumptions and circumstantial evidence that creates suspicion for the judge in respect of commission of the crime or manner of perpetration thereof by the accused.

Article 315

Nonexistence of circumstantial evidence and presumptions creating reasonable suspicion and mere presence of the person at the accident venue shall not be an instance of reasonable suspicion; and, he or she will be acquitted by swearing an oath.

Article 316

The judicial authority, if invoking sworn testimony, shall specify in his judgment the circumstantial evidence and presumptions giving rise to reasonable suspicion. The instances where oath or compurgation is set aside by the judge are subject to this provision.

Article 317

Should reasonable suspicious be arrived at, initially the accused will be required to produce proof refuting the charge; and, should such proof be produced, there will be no room for the complainant's sworn testimony; and the accused shall be acquitted. Otherwise, upon establishing reasonable suspicion, the complainant may make sworn testimony or request the accused to make compurgation.

Article 318

Should the complainant fail to make sworn testimony and refuse to require the accused to make compurgation, the accused shall be released on posting a bail in cases of premeditated felonies, and without bail in unpremeditated felonies. However, the complainant will retain the right to make sworn testimony or require the accused to make compurgation.

Note

In cases where a bail is posted, the complainant will be given three months respite at maximum to make sworn testimony or require the accused to make compurgation; and after passage of the respite, the received bail bond shall be discharged.

Article 319

Should the complainant require the accused to make compurgation, the accused will be sentenced to payment of wergild if refusing to

undergo compurgation, and shall be acquitted if making compurgation and; and, the complainant shall have no right to reassert the complaint by making sworn testimony against him or her or by presenting evidence. In that case, the accused may not pass the oath to the complainant to take.

Article 320

It is for the holder of the right of enforcing talion or receiving wergild or his/her natural guardian or attorney to make sworn testimony or require the accused to make compurgation. The same applies to compurgation for obtaining acquittal in favor of the accused, which shall be made by the accused or his or her natural guardian or attorney. One may not empower another to take oath on his or her behalf.

Article 321

If the victim or the avenger of blood passes away, each heir, without requiring consent of other heirs of the deceased or other avengers of blood, shall have the right to require compurgation or make sworn testimony.

Article 322

Should certain heirs discharge the accused of the original charge or some of specifications thereof, the right of others, in cases of reasonable suspicion, shall remain in force.

Article 323

Where several persons are charged with participation in committing a felony and reasonable suspicion exists against all of them, one sworn testimony shall suffice for establishing that they participated in

committing the felony, and it is not required to make sworn testimony in respect of each of the accused persons.

Article 324

Should a complainant assert that only a specified person among two or more persons is guilty, and should sworn testimony be made for proving collaboration in committing the crime, the complainant may not enforce talion against anyone other than the said person; and should the wergild of the person against whom talion is enforced exceeds his or her share of the wergild for the felony committed by him or her, the other aider(s) and abettor(s) shall pay the excess amount of the said wergild to the person against whom talion is enforced. After sworn testimony is made, no withdrawal by the complainant of the asseveration that the perpetrator solely committed the felony will be admissible.

Article 325

Where a certain number of the holders of the right to enforce talion require compurgation by the accused, the compurgation by the accused will only extinguish the right of those requiring compurgation, and the right of others to prove their complaints remains in force; and, in case they succeed in establishing the act requiring talion, they shall pay the amount the first group's share of the wergild to them or to the perpetrator, as the case may require, prior to enforcing talion.

Article 326

Should the complainant refuse to make sworn testimony against the accused, notwithstanding reasonable suspicion arisen, and require the latter to make compurgation; and the accused asserts to have no

information about the felony per se or specifications thereof, the complainant may require him or her to take an oath regarding lack of information. Should the accused swear to have no information about the felony itself, the proceedings will be stayed, and he or she shall be released without bail. And, where the swearing concerns only lack of information about the specifications of the crime, the proceedings shall be stayed only in respect of the specifications. However, if the accused refrains from taking oath and the complainant swears that he or she has information about it, the accused person's allegation regarding lack of information shall be dismissed, and the complainant shall have the right to require the accused to make compurgation. In that case, should the accused fail to undergo compurgation, he or she will be sentenced to payment of wergild.

Article 327

Should there be numerous complainants, making one compurgation for all of them shall suffice. However, in case there are numerous accused persons, a separate compurgation shall be required for acquitting each.

Article 328

In case accused persons are numerous, each may participate in compurgation in favor of another accused person.

Article 329

Sworn testimony proves perpetration only to the extent that reasonable suspicion is arisen; and proof of specifications of a felony, such as it having been a premeditated felony, a quasi delict or a culpa fault (*levissima culpa*); the extent of felony; and it having been an aiding

and abetting or sole perpetration shall require reasonable suspicion about those specifications.

Article 330

Should no reasonable suspicion be arrived at in respect of the specifications of a felony or should the sworn witnesses make no swearing regarding specifications thereof, but only in respect of attribution of commission of the felony to the perpetrator, the perpetration per se of the felony will have been established, and a wergild will be payable.

Article 331

Where mere perpetration of a felony is established by any evidence other than sworn testimony, the specifications thereof will be provable by sworn testimony, should reasonable suspicion arise in respect of any. For instance, where either of two virtuous witnesses testifies to occurrence of homicide and the other to perpetration of a premeditated murder, then the homicide per se will be established by evidence; and should reasonable suspicion exist, the premeditation of the murder may be established by sworn testimony.

Article 332

Should reasonable suspicion be arrived at against two or more persons, on doubtful basis, perpetration of crime will be established, after the perpetrator is specified by the victim or avenger of blood and upon making sworn testimony against him or her.

Article 333

Where reasonable suspicion is arrived at in respect of commission of a crime doubtfully by two or more persons and sworn testimony has

been made against them in the same way, a probable cause will be created regarding perpetration of crime by each of several persons, and the judge will require them to **compurgate** that they are innocent. Should all refuse to take oath, or should some swear and some refuse to do so, wergild shall be payable by those who have refused. Should those refused be numerous, each will be required to pay an equal portion thereof. Should all swear to be innocent, wergild will be paid out of the treasury in cases of murder, and will be payable by all of them on equal basis in cases of other crimes.

Article 334

Where reasonable suspicion exists as to commission of a felony by two or more persons on probable basis, should the complainant require compurgation, each shall undergo compurgation. Should all or some of them refuse to take oath, wergild shall be payable by any person who has refused. Should those refused be numerous, each will be required to pay an equal share thereof. Should all take compurgation, wergild will be paid out of the treasury in cases of murder.

Article 335

Where reasonable suspicion arises only against certain specified persons and the complainant asserts that more people collaborated in perpetration of felony, commission of the crime will be established to the extent alleged by the complainant and in the instance where reasonable suspicion has arisen. For example, where the avenger of blood asserts collaboration of three men in commission of premeditated murder of a man, and reasonable suspicion arises only against joint perpetration of two of them, the right to talion will be established against those two persons to the extent of their

collaboration. However, should the avenger of blood wish to enforce talion against both, he or she shall pay, on account of his or her deposition regarding collaboration of three persons in the felony, two third of wergild to each person against whom talion is enforced.

Note

Withdrawal of the admission of a complainant that more individuals collaborated in a felony shall not be acceptable, save where he or she has initially raised the matter of collaboration of more persons, as a probability; and the witnesses given the sworn testimony have denied participation of other persons, and have sworn to perpetration of the murder by a fewer number of persons.

Article 336

The minimum number of oath swearing required for proving a premeditated murder shall be those to be made by fifty men of the complainant's relatives and dependents. Commission of murder will not be proven by repeating oaths.

Article 337

Swearing by a complainant, being a man or a woman, will be counted in reaching the minimum oaths required.

Article 338

Where a complainant requires the accused to make compurgation, the accused shall undergo compurgation in order to have himself/herself acquitted, in which case there shall be sworn witnesses in the number of oaths required, as the case might be. Should their number be less than the minimum required, the oaths will be repeated by them or by him or her until reaching the minimum required. And, where no sworn

witness exists, the accused, being a man or a woman, will repeat all oaths required, and will be acquitted.

Article 339

All the terms laid down in Book One: Generalities of the present Code regarding oath taking shall apply to sworn testimony and compurgation.

Article 340

It is not required for a sworn witness to have been an eyewitness to the incidence of committing a crime, and his knowledge of the subject matter of oath shall suffice. Furthermore, it is not required for the judge to know the origin of the sworn witness's information; and alleged knowledge of the sworn witness shall be credible so far as no valid rebuttal evidence against it exists. At any rate, interrogation and examination of the sworn witness by the judicial authority shall not be prohibited.

Article 341

Where it is a probability that the sworn witness might have testified without knowledge of facts and based on suspicion and conjecture or with collusion, the judicial authority shall be required to investigate the matter. If after investigation, the said matters are not established, the oath shall be credible.

Article 342

Sworn witnesses shall be from among persons the probability of whose knowledge of commission of the felony is plausible.

Article 343

Prior to making sworn testimony and compurgation, the judge may point out to sworn witnesses the statutory penalty and the punishment in the hereafter for false swearing and non-authorization of making ironic statements.

Article 344

Should after sworn testimony or compurgation and prior to issuance of the sentence, a credible evidence repugnant to the sworn testimony or compurgation be found or should it be established that the requisites of making sworn testimony or compurgation were not met, the sworn testimony or compurgation will become invalidated; and should it occur after the sentence is entered, it will be an instance where retrial shall be authorized.

Article 345

The complainant may not reinstate the complaint by adducing evidence or sworn testimony, after compurgation by the accused.

Article 346

In case after a sentence is entered, it becomes established that all or some of the oaths lacked credibility, e.g. where a number of sworn witnesses withdraw their sworn statements or it becomes established for the court that the sworn statements were falsified or were given without knowledge of facts, the matter will be an instance where retrial shall be authorized.

Chapter Five: Holder of the Right to Retaliate

Article 347

The holder of the right to retaliate may remit at any stages of prosecution, trial or at the time of enforcement of a sentence, gratuitously, or by settlement against receiving a right or property.

Article 348

The right to retaliate shall be inheritable in the manner laid down in the present Code.

Article 349

The avenger of blood may not enforce talion against the perpetrator, before the victim passes away, and will deserve talion if he or she murders the perpetrator, and the felony does not finally end in the victim's death. Otherwise, he or she will be sentenced to the discretionary punishment laid down in law, save in the instance that the avenger of blood believes that the perpetrator is subject to the provision of Article 302 of the present Code, in which case he or she will not deserve talion.

Article 350

Where avengers of blood are numerous, the right to retaliate will be created for each of them, independently.

Article 351

The avenger of blood shall be the heirs of the slain person, except for the husband or the wife who shall have no right of retaliation.

Article 352

Should the right to retaliate be commuted to wergild for any reason or be settled for a property or a right, such a wergild, property or right will be inherited by the slain person's wife. Should some of the

avengers of blood ask for talion and the others for wergild, the slain person's wife will inherit from the portion of wergild of those who have requested payment thereof.

Article 353

Should a holder of the right to retaliate pass away, the right will be inherited by the heirs, even if the heir is the heir's wife.

Article 354

Should the victim, all of the avengers of blood or some of them be underage or insane, their natural guardian, observing their prejudice, shall have the right of retaliation, settlement or remission, and may also wait until the minor will reach full age, or the insane will be recovered. Should certain avengers of blood, being of full age and sane, request talion, they may enforce talion against the perpetrator. However, should the natural guardian of the minor or insane require payment or provision of the share of his ward by them, they shall act according to his request. The provision of this Article shall also apply to the cases where the right to retaliate is transferred to their heirs owing to death of the victim or of the avenger of blood. This provision also applies to the crimes committed prior to the date the present law has come into force.

Article 355

As to the provision of Article 354 of the present Code, a fetus if born alive is capable to be deemed avenger of blood.

Article 356

The Leader is the custodian of any slain person, victim, or the avenger of blood of an underage or insane who has no natural guardian, and/or

whose natural guardian has not been identified and/or accessed; and, the Chief of the Judiciary, after having requested the Leader's authorization and should the Leader agree thereto, may delegate this authority to respective public prosecutors.

Article 357

Should the perpetrator or aider and abettor in a premeditated murder be an heir, he or she shall not be deemed to be the avenger of blood, shall have no right of retaliation, nor shall he or she inherit the right of retaliation.

Article 358

Should the victim or avenger of blood be an underage or insane person, and his or her natural guardian commit a premeditated murder or be an aider and abettor thereto, the natural guardian shall have no guardianship right in this respect.

Article 359

In the instances where a right of retaliation is established, should talion not be subject to payment of wergild differential, only the victim or the avenger of blood may enforce talion or remise. And, should the victim or the avenger of blood want to receive wergild, he or she shall require settlement with, and consent of the perpetrator.

Article 360

In the instances where enforcement of talion requires payment of wergild differential to the person against whom talion will be enforced, the holder of the right of retaliation shall have an option to choose between talion with paying wergild differential and receiving the wergild laid down in law, even without the perpetrator's consent.

Article 361

Should the victim or avenger of blood remit and make relinquishment of the right of retaliation subject to payment of a settlement amount or performance of another matter, the right of retaliation shall be retained by him or her until the condition is met.

Article 362

Where after settlement or conditional remission, the perpetrator is not prepared or able to pay the settlement amount or perform his or her undertaking or where the condition is not met, the right of retaliation will be preserved, and the case will be referred to the same court, save where settlement also envisioned a situation where the undertaking would not be fulfilled.

Article 363

Remission or settlement prior to issuance of sentence or thereafter will result in relinquishment of the right of retaliation.

Article 364

Withdrawal of remission shall not be acceptable. Should the victim or avenger of blood enforce retaliation after remission, he or shall deserve talion.

Article 365

In cases of murder and other premeditated felonies, the victim may after occurrence of felony and prior to demise waive the right of retaliation or make settlement; and the avengers of blood and the heirs, as the case might be, shall have no right to demand enforcement of talion or payment of wergild, after death. Nevertheless, the

perpetrator shall be sentenced to the discretionary punishment laid down in Book Five: Discretionary Punishments.

Article 366

Where commission of a number of premeditated murders by two or more individuals is established, but it is doubtful which slain person has been murdered by each of the murderers, e.g. where two persons have been murdered by two persons, and it is not established which one of the slain persons was murdered by either murderer, should the avengers of blood of both the murdered persons require retaliation, talion will be enforced against both. And, should avengers of blood of either have no right of retaliation or relinquish such right the right of retaliation of the other will also be converted to wergild, owing to non-identification of the murderer.

Note

The provision of this Article shall also apply to premeditated felony against a body organ, provided that the felonies imposed upon victims were the same. Nevertheless, where felonies committed against each victim differ from the other's felonies, the feasibility of retaliation comes to naught even in cases where all victims require talion, and talion will be converted to wergild.

Article 367

As to Article 366 of the present Code, where avengers of blood of both victims require talion and the two victims are not equal in terms of the amount of wergild, and where in that case the wergilds of perpetrators are higher than those of the victims, e.g., where the murderers are both male, and either of the slain persons is a female, the avenger of blood who seeks talion on the part of the woman shall

pay a half of full wergild, in which case owing to non-identification of the woman's murderer, the said differential shall be distributed among the perpetrators on equal basis.

Note

The wergild subject matter of the present Article will be paid to the person entitled, in accordance with the present Code and prior to enforcement of talion.

Chapter Six: Aiding and Abetting in Felony

Article 368

Where a number of persons inflict injuries upon a victim and only certain injuries cause homicide, only those who have inflicted injuries that caused homicide are principal perpetrators of murder, and the others will be sentenced to body organ talion or payment of wergild, as the case might require.

Article 369

Murder or any other felony may be premeditated, quasi delict or culpa fault (*levissima culpa*) in respect of each principal/ aider and abettor.

Article 370

Non-establishment of the right of retaliation against certain aiders and abettors for any reason, such as lack of a requisite condition for talion or non-premeditation of felony in respect of him, shall not be a bar to establishment of the right of retaliation against other principal perpetrators; and each principal/ aider and abettor shall be sentenced according to his or her situation.

Article 371

Where a person inflicts injury upon an individual, and then another person murders him or her, the murderer shall be the second person, even where the previous injury could have per se caused death. And, the first person shall be sentenced to body organ talion, only.

Article 372

Where a person inflicts injury upon a person in such manner that makes him or her almost dead, leaving him or her the last breaths to take, and in that condition another person ends his or her unstable life by doing a conduct, talion will be enforced against the first person, and the second person will be sentenced to the punishment of crimes against the dead. The provision of this Article and Article 371 also applies to unpremeditated felonies.

Article 373

In the instances of co-perpetration of a premeditated murder, the victim or the avenger of blood, as the case might be, may enforce talion against one of the principal murderers in the premeditated murder, in which case the others shall immediately pay their shares of wergild to the person against whom talion is enforced, or may enforce talion against all principals or against more than one of them, provided that he or she pays the amount by which wergild is in excess of the felony committed to the persons against whom talion is to be enforced, prior to enforcing talion. And, where talion is not enforced against all co-perpetrators in a felony, every principal against whom talion will not be enforced shall pay his or her share of the wergild for felony proportionately to the total number of principals.

Note

Where the victim or the avenger of blood wants to enforce talion against certain co-perpetrators, and gratuitously waives his or her right against others or makes a settlement with them, should the amount of wergild of those against whom talion is to be enforced exceeds the wergild for their contribution to the felony, he or she shall pay the amount by which the wergild exceeds to the persons against whom talion is to be enforced, prior to enforcement of talion.

Article 374

Where the wergild for a felony is more than the wergild if committed against the perpetrator, e.g., in cases of premeditated murder or hand cutoff of a man by a woman or a Muslim by a non-Muslim, should the perpetrator be one single person, the holder of the right of retaliation shall have no right to receive wergild differential in addition to talion. And, where perpetrators are numerous, the holder of the right of retaliation may enforce talion against all after paying the amount by which the wergilds of those against whom talion is to be enforced exceed the wergild of the felony. He may also enforce talion against co-perpetrators for the same amount as the wergild of the felony, without making any payment, in which case, the co-perpetrators against whom talion is not enforced shall pay their shares of the wergild of felony to those against whom talion is to be enforced. In addition, the holder of the right of retaliation may enforce talion against one of the co-perpetrators whose amount of wergild is less than the felony wergild, and receives the wergild differential from other co-perpetrators. Yet, the holder of the right of retaliation may not seek payment of more than this amount from each, save where he or she has made settlement for a higher amount. Furthermore, where the holder of the right of retaliation seeks enforcement of talion against all or certain of those the total amount of whose wergilds is

more than the felony talion, he or she shall initially pay the wergild differential of the person against whom talion will be enforced to him or her, proportionately to his or her contribution in the felony, and then may enforce talion.

Chapter Seven: Coercion in Felony

Article 375

Coercion for perpetrating murder shall not be an authorization for committing murder; and the perpetrator will be subjected to talion, and coercer will be sentenced to life imprisonment.

Note 1

Where the coerced person is an undiscerning minor or an insane, only the coercer will be sentenced to talion.

Note 2

Where the coerced person is a discerning minor, his or her custodian will pay the slain person's wergild. In that case, the coercer will be sentenced to life imprisonment.

Article 376

Life imprisonment as punishment of the coercer shall be subject to the coercer and the avengers of blood meeting general requisites for talion, and may be remitted and settled. Should the coercer not be sentenced to life imprisonment for any reason, he or she shall be sentenced to the punishment set forth for accomplice.

Article 377

Coercion for committing a crime against a body organ shall make the coercer subject to talion.

Article 378

Every allegation regarding coercion on perpetration of a felony against a body organ shall be established in court; and should it not be proven, talion shall be enforced against the perpetrator, upon the swearing of the avenger of blood.

Article 379

Where a person coerces another into carrying out a conduct, which causes commission of a felony against the coerced person, the felony is a premeditated one and talion will be enforced upon the coercer, save where the coercer had no intent to commit a felony against him, nor did he or she have the information of and notice to that such type of coercion would normally amount to perpetration of felony against the victim, in which case the felony will be a quasi delict, and the coercer will be sentenced to payment of wergild.

Article 380

There shall be no talion, wergild and discretionary punishment in case a person murders or injures a coercer with due observance of the requisites laid down in self- defense, in order to defend himself or herself and to become released from coercion.

PART TWO: Blood Vengeance

Article 381

The punishment for premeditated murder upon request of the avenger of blood and provided that other requisites laid down in law are met shall be talion. Otherwise, action shall be taken in this respect for ordering payment of wergild and enforcement of discretionary punishment in accordance with other provisions of the present Code.

Article 382

Where a Muslim woman is premeditatedly murdered, a right of retaliation shall arise. However, where the murderer is a Muslim man, the avenger of blood shall pay to him a half of the full amount of wergild for homicide of a man, prior to enforcing talion; and where the murderer is a non-Muslim man, talion will be enforced against him, without any payment. Payment of wergild differential shall also be required in case of enforcing talion against a non-Muslim man for murdering a non-Muslim woman.

Article 383

Where a person premeditatedly murders two or more persons, the avengers of blood of each slain person may enforce talion, individually, without obtaining consent of other murdered persons' avengers of blood and without paying any part of wergild to them.

Article 384

Where a person premeditatedly murders two or more persons, and all of the avengers of blood seek talion, talion will be enforced against

the murderer, without payment by the murderer of any wergild. Where certain of murdered persons' avengers of blood seek talion and the avengers of blood of the other murdered person(s) seek wergild, should the murderer agree to payment of wergild against their relinquishment of the right of retaliation, their wergilds will be paid out of the murderer's property. And, they shall have no right to receive wergild from him or her or from his or her property, without the murderer's consent.

Article 385

Where murder is committed in one of the forbidden months (*Zul Qa`dah, Zul Hajj, Muharram and Rajab*) or within the sanctuary of the sacred Mecca, or where talion is enforced against the murderer in the aforesaid span of time or at the abovementioned place, and talion requires payment of wergild difference by the avenger of blood to the murderer, the wergild differential will not be increased by a third. Nor will the wergild that an avenger of blood pay to other avengers of blood be increased by a third. Nevertheless, where murder takes place during the aforementioned time and at the aforesaid place, the wergild that co-perpetrators/ aiders and abettors owing to their contribution to perpetration of felony shall pay, as the case might be, to the person against him talion is enforced, to the avenger of blood or to both shall be increased by a third.

PART THREE: BODY ORGAN TALION

Chapter One: Cause of Talion against Body Organ

Article 386

The punishment for premeditated felony against a body organ upon request of the victim or his or her guardian and provided that other requisites laid down in law are met shall be talion. Otherwise, action will be taken in this respect for ordering payment of wergild and enforcement of discretionary punishment in accordance with other provisions of the present Code.

Article 387

Felony against body organ is defined as any injury short of murder, such as cutting off an organ, wounding, and inflicting damage upon benefits.

Article 388

Muslim woman and Muslim man are equal in terms of body organ talion; and a man shall be sentenced to talion for inflicting an injury upon a woman. However, where the wergild for a felony inflicted upon a woman is equal to or more than a third of the full amount of wergild for homicide of a man; talion will be enforced after payment to the man of a half of the wergild for the body organ against which talion is to be executed. The foregoing rule also applies to a case where the victim is a non-Muslim woman, and the perpetrator is a non-Muslim man. However, where the victim is a Muslim woman and

the perpetrator is a non-Muslim man, talion will be enforced without payment of a half of the wergild.

Article 389

Where owing to one or more strikes, multiple felonies are inflicted upon one or more body organs, the right of talion will arise for each felony separately; and, the victim may make settlement with the perpetrator in respect of some, waive talion in respect of some, and enforce talion in respect of some.

Article 390

Where a felony inflicted upon a body organ is of degrees, the victim may with the perpetrator's consent enforce talion in respect of part of the felony. For example, where a wound has pierced the flesh and **Periosteum** and bared the bone, the victim may enforce talion by only gashing the flesh, and where the hand has been cut off at elbow, the victim may only go that far to chop off at wrist, and to waive talion or make settlement in respect of the other part.

Article 391

Where a person has committed a premeditated felony against several body organs of another person and it is not possible to enforce talion in respect of all, as if he or she cuts off both hands of a person, while the perpetrator himself or herself has no more than one hand, talion will be enforced against the perpetrator to the extent possible, and in respect of other felonies he or she will be sentenced to payment of wergild and the discretionary punishment laid down in Book Five: Discretionary Punishments.

Article 392

Where a person commits a premeditated felony against body organs of a number of persons, talion will be enforced against him or her, in case enforcement of talion for all of them is feasible; and in the event enforcement of talion for all of those felonies is not feasible, the first victim felony against whom preceded those against others will have priority in enforcing talion; and should talion be enforced, the perpetrator will be sentenced to payment of wergild and the discretionary punishment laid down in Book Five: Discretionary Punishments on account of perpetration of felonies against those for whom no organ exists for enforcement of talion. If the two felonies were committed simultaneously, either victim may retaliate, and after enforcement of talion, the perpetrator will be sentenced to payment of wergild and to the discretionary punishment laid down in Book Five: Discretionary Punishments as the punishment for other felonies in respect of which talion is not feasible. Where after the first talion is enforced, there remains in the perpetrator the member of body for the second victim to enforce talion against, yet the part left is less than the body member against which the felony was committed, the second victim may enforce talion to the extent feasible and receive wergild for the difference. For example, where a perpetrator had initially cut off the right hand's fingers of a person, and then the whole right hand of another person, the first victim will have priority in enforcing talion, and after he enforced talion, the second victim may enforce talion against the perpetrator's right hand and receive wergild for his finger too.

Chapter Two: Conditions for Body Member Talion

Article 393

In order to enforce talion against a member of body, there shall be met, in addition to general prerequisites of talion, the following conditions, the details of which are set forth in the present law:

- a. The body member against which talion is enforced shall be the same that felony was perpetrated against;
- b. The extent of talion shall equal that of the felony;
- c. There shall be no risk of killing, or injuring another organ of the perpetrator;
- d. A healthy body organ shall not be subjected to talion for an unhealthy organ;
- e. No talion should be enforced against a main organ of body for a body member other than a main organ;
- f. It shall not constitute talion against a complete body organ for an incomplete body organ.

Note: Talion will be enforced against the left hand where the convict has no right hand, and against his or her foot, where he or she has no right hand either.

Article 394

Parity in length and width shall be observed, where enforcing talion for wounds. However, where the length of the body organ against which talion is to be enforced is less than the length of the injured body organ in the victim, enforcement of talion shall not extend to another body organ, and wergild shall be received for the extent by which felony exceeded the talion. Yet, as to the depth of felonious injury, title of felony differs according to the depth of the injury.

Article 395

Where the body organ subjected to felony was healthy or complete, and the perpetrator's body organ is unhealthy or paralyzed, the victim

may enforce talion or receive wergild with the consent of the perpetrator.

Note

An unhealthy body organ is a member that has lost its main use, such as a paralyzed body organ. Otherwise, it shall be deemed to be a healthy body organ, even where it suffers from weakness or illness.

Article 396

Talion will be enforced against a strong and sound body organ four a weak and defective body organ.

Article 397

No talion will be enforced against a complete organ for an incomplete organ. However, talion will be enforced against a paralyzed body organ for a complete body organ, in which case the perpetrator shall pay wergild for the difference.

Note

A paralyzed organ is an organ that is short of certain parts, such as a hand that lacks one or more finger(s) or a part of one or more finger(s).

Article 398

Where the body organ subjected to felony and the body organ against which talion is enforced are both paralyzed or unhealthy, the right to enforce talion will be established only where the paralysis and unhealthiness of the body organ against which talion is to be enforced be equal to or severer than that of the organ suffered as a result of the felony.

Article 399

Where the body organ against which felony was committed constituted a superfluous organ, and the perpetrator had no such excrescence, he or she will be sentenced to payment of wergild differential.

Article 400

Where observance of parity in length, width and depth is infeasible, and enforcement of talion for less is feasible, the victim may either accept less and demand payment of wergild differential for the difference, or receive the wergild prescribed for the felony with the consent of the felon.

Article 401

Talion may not be enforced as punishment of felonies that caused injured brain **meninges**; pierced brain **meninges** and affected brain; engendered deep wound entering empty spaces of the body; created broken bones, displaced bones, or caused bone fracture; or made injuries that engender change of skin color or body inflammation; and, the perpetrator will be sentenced to the discretionary punishment laid down in Book Five: Discretionary Punishments, in addition to payment of wergild. The same rule also applies to any other case where there is a risk of excess in enforcing talion against a body organ or interests.

Article 402

Should a person take out either of the other person's eyes or make him or her blind, talion will be enforced against him or her, even where the perpetrator has no more than one eye, without being paid any wergild. This same rule applies to all pair organs of human body.

Article 403

Where a person who has two eyes takes out another person's only eye, or makes it blind, the victim may enforce talion against either eye of the perpetrator, and receive a half of full wergild too, or dispense with enforcing talion against an eye, and receive full wergild, save where the victim had already lost an eye as a result of enforcing talion against him or her or a felony for which he or she was entitled to receive wergild, in which case he or she may enforce talion against the perpetrator's eye, or receive a half of full wergild with the consent of the perpetrator.

Article 404

Should a person cause another person to lose his or her eyesight, without injuring his or her eye socket, talion will be enforced only against the perpetrator's eyesight. In case enforcement of talion is not feasible without injuring the eye socket, the punishment will be commuted to wergild; and the perpetrator will be sentenced to payment of wergild and the discretionary punishment laid down in law.

Article 405

Talion may be enforced against healthy eyes for eyes that are not normal in terms of sight and/or shape.

Article 406

Eyelids with eyelashes shall not be excised for eyelids without eyelashes. However, talion may be enforced against sighted eyes' eyelids for those of blind eyes.

Article 407

Cutting off auricles, which causes loss of audition, or cutting off nose, which causes loss of smelling power shall be deemed to be two felonies.

Article 408

Cutting off nose or an ear shall create the right of talion, even though they might have no smelling and audition senses, as the case might be.

Article 409

Cutting off tongue or lips shall create a right of talion, and the size and the location thereof shall be observed.

Article 410

Where a person with talking ability cuts off a dumb person's tongue, no talion shall be enforced, and wergild will be received. However, talion shall be enforced against a dumb person's tongue for cutting off another dumb person's tongue, and for doing the same to a person's tongue with talking ability. And, talion shall be enforced against a tongue with tasting sense for cutting off a tongue without tasting sense.

Article 411

Talion shall be enforced against the tongue of a person with talking ability for that of an infant who has not yet achieved the age of talking, save where it is established that the child is a dumb person.

Article 412

A person breaking another person's deciduous tooth will be sentenced to talion; and in enforcing talion, it is not required to observe parity in location of the tooth.

Article 413

Where a person's tooth was pulled down by another person, no talion would be enforced against the perpetrator, if a tooth grows in place thereof in the period until the time talion will be enforced; and, the perpetrator will be sentenced to the discretionary punishment laid down in Book Five: Discretionary Punishments, plus wergild differential for the wound and compensation for the period in the course of which the victim remained toothless. And, should the newly grown tooth be unsound, the perpetrator will be also ordered to pay wergild differential for the defect, in addition to the foregoing sentences. Where the victim is an infant, issuance of judgment will be postponed for a reasonable period to allow teeth to grow; and should a tooth be grown, one-hundredth of the wergild will be paid. Should the victim pass away in the course of this period, the perpetrator will be sentenced to wergild in addition to the said discretionary punishment.

Article 414

Where the perpetrator's tooth is a deciduous one and that of the victim is a non-deciduous tooth, the victim will have the option to either enforce talion against the deciduous tooth or to postpone enforcement of talion until after the perpetrator grows permanent teeth.

Article 415

Should the victim grows teeth after enforcement of talion or after wergild is received, the victim will owe nothing; and where wergild is received due to infeasibility of enforcing talion, the wergild will not be returned either.

Article 416

Should the perpetrator grows teeth after enforcement of talion, the victim shall have no right to enforce talion against it, again.

PART FOUR: ENFORCEMENT OF TALION

Chapter One: General Provisions

Article 417

Enforcement of Talion shall be subject to authorization of the Leader or his representative.

Article 418

Application for authorization by the Leader of enforcing a talion sentence is aimed at monitoring propriety of enforcement and of the rights of the holder of right to enforce talion and other parties to the complaint; and, formalities of applying for authorization shall not hinder the possibility of causing execution of talion by the holder of right to enforce talion and depriving him/her of his or her right.

Article 419

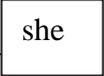
It is the right of the holder of right to enforce talion and the victim to enforce talion and to execute it himself or herself, which right is transferred to the heirs upon death of such holders, and which talion shall be enforced after applying for authorization by the Leader through respective Criminal Sentences Execution Office.

Article 420

Should the holder of a right to enforce talion retaliates in contravention with the regulations; he or she will be sentenced to the discretionary punishment laid down in Book Five: Discretionary Punishments.

Article 421

No person other than the victim or the holder of right to enforce talion shall have the right to execute talion against the perpetrator; and, any person taking retaliatory action against him or **her**, without their authorization, shall deserve talion.

she**Article 422**

As regards each right of talion, every holder of a right to enforce talion shall independently have the right to enforce talion. Nevertheless, when executing talion, none shall have the right to despoil others' rights; and should he or she retaliate without authorization and agreement of the other persons requiring talion, he or she will be liable to pay the others their shares of wergild.

Article 423

As regards each right of talion, where certain holders of the right to enforce talion require payment of wergild or remit the perpetrator, the person who requires talion should initially pay the others' shares of wergild, to the perpetrator, if they had already waived their right to receive it from the perpetrator, and to them, upon their request.

Article 424

As regards each right of talion, where certain holders of the right are absent and the duration of their absence is short, the issuance of sentence will be postponed until his or her return; and where the duration of absence is long and/or where it is not hoped that they would return, the Leader will take decision in their place as the guardian of the absentee; and where the date of their return is unknown, the Leader will take decision for them after passage of the short time and before the absence period lingers long. Those present

may enforce talion after having given security to the court for payment of the absentees' shares of the wergild; and should those present remit or make settlement with the perpetrator, the right of the absentees to enforce talion will be reserved; and should they after reappearance require enforcement of talion, they shall initially pay the wergild shares of persons who have remitted or have made settlement with the perpetrator to him or her and then enforce talion.

Article 425

Where a perpetrator premeditatedly inflicts a felonious injury upon another and the wergild for the felony inflicted on the victim is in excess of the wergild in respect of the perpetrator, e.g. where a female Muslim murders a male Muslim, the holder of the right to enforce talion may not demand payment of wergild differential in addition to enforcing talion.

Article 426

In the instances where a right of talion arises, should the wergild for the felonious injury inflicted upon the victim be less than that if committed against the perpetrator, the holder of the right to enforce talion may enforce talion in case he or she initially pays the wergild differential to the perpetrator; and talion may not be enforced without having paid it. And, in case he or she opposes the same and enforces talion, he or she will be sentenced to the punishment laid down in Book Five: Discretionary Punishments, in addition to payment of wergild differential.

Article 427

In the instances where the holder of the right to enforce talion is required to pay part of the wergild to other holders of the right to

enforce talion, payment shall be made in advance of enforcing talion; and, in case he or she violates this provision and enforces talion, he or she will be sentenced to the punishment laid down in Book Five: Discretionary Punishments, in addition to payment of wergild differential.

Article 428

In the instances where commission of the felony has disturbed *ordre public* and public security, or outraged public sentiments and it is expedient to enforce talion, yet the complainant has no financial ability to pay the wergild differential or other wergild shares of the holders of the right to enforce talion, the said amount shall be paid out of the public treasury at the request of the Attorney General and upon confirmation of the Judiciary Chief.

Article 429

In the instances where the talion convict is in jail, and the holder of the right to enforce talion has left the perpetrator in uncertain situation without plausible excuse, owing to inability to pay the wergild differential, or awaiting the avenger of blood or the victim to reach age of maturity or recover from insanity, the court that has entered the sentence will, upon complaint of the convict, set an appropriate deadline, and will order the holder of the right to enforce talion to remit the convict, to make settlement with him or her, or to enforce talion, within such period. Should he or she fail to act within this period, the court may after having made decision pursuant to Book Five: Discretionary Punishments, and after passage of the respite, release the perpetrator on appropriate bail, upon ratification of the president of the judicial center and the General President of the Courts

of the province, pending decision of the holder of the right to enforce talion.

Article 430

In the instances where payment of wergild differential is required, should any amount be owed to the murdered person or to the holder of the right to enforce talion, such debt may be taken into account as the wergild differential with the consent of the creditor and even without the consent of the perpetrator.

Article 431

The wergild differential or the amount paid by co-perpetrators shall belong to the person against whom talion is enforced, and he or she may bestow it to the holder of the right to enforce talion or his or her co-perpetrators and/or make any other type of **possessory** act in respect thereof. Yet, he or she shall reimburse it, where it had received it, but talion was not enforced.

Article 432

Where the victim has passed away before exercising his or her right to enforce talion and the value of his or her estate is not sufficient for payment of his or her indebtednesses, the holder of the right to enforce talion shall have the right to exercise the right to enforce talion without paying or guaranteeing payment of debts; and should on any ground the talion be commuted to wergild, the amount thereof shall be spent on paying off the foregoing debts. The same rule also applies to the estate of a murdered person.

Article 433

Should the victim or all of the avengers of blood waive execution of talion, prior to or in the course of enforcement thereof, talion will be arrested; and they shall not be liable for the damage sustained by the perpetrator in the course of enforcement of talion. And, should some of them remit or make settlement, the talion applicant shall pay their shares of wergild to them or to the perpetrator, as the case might be, prior to enforcement of talion.

Article 434

Any person who rescues an individual who has committed a premeditated felony will be ordered to surrender him or her. In cases of murder and felony against an organ that has resulted in severance or paralysis of a body organ or loss of one of its uses thereof, where detention of the rescussor will contribute to reappearance of the perpetrator or will require the rescussor to surrender the perpetrator, the court shall at the request of the holder of the right to enforce talion, order the recurssor to be detained pending arrest of the perpetrator. Should the perpetrator pass away prior to arrest, should the perpetrator's arrest become difficult or impossible, or should the holder of the right to enforce talion so consents, the recurssor will be released. And, in all cases of murder and body organ talion, where the perpetrator has passed away or his arrest has become difficult, the holder of the right to enforce talion shall have the right to collect the wergild out of his or her assets or those of the resurssor. After payment of the wergild, the rescussor may refer to the perpetrator for reimbursement thereof.

Article 435

Where as regards a premeditated felony, it is impossible to access the perpetrator owing to his or her death or escape, the wergild will be

paid out of his or her assets, at the request of the holder of the right to enforce talion; and where in cases of premeditated murder the perpetrator has no assets, the avenger of blood may collect the wergild from the paternal or parental kinsmen of the perpetrator, and if there is no or no access to paternal or parental kinsmen, or where they are financially incapable, the wergild will be paid out of the public treasury. And, in cases of other than murder, wergild shall be borne by the public treasury. Should after receiving the wergild, the perpetrator of felony, whether in murder or in other than murder, become accessible, the right to enforce talion will be kept for the avenger of blood or the victim in case collection of wergild was not due to remission of talion; yet, he or she shall reimburse the wergild received, prior to enforcing talion.

Chapter Two: Enforcement of Talion by execution

Article 436

Enforcement of talion shall be authorized only by reasonable means that inflicts the least torment upon the murderer; and it is forbidden to mutilate him or her after enforcement of talion, and in case of mutilation, the act will be punishable by wergild and the discretionary punishment laid down in Book Five: Discretionary Punishments.

Article 437

Talion shall not be enforced upon a pregnant woman sentenced to talion by execution, until after parturition. It shall also be postponed after child delivery, should it be feared that the child might perish, until the date when the child's life would be preserved.

Article 438

Should after enforcement of talion by execution, the murderer stays alive, the right to enforce talion will be preserved for the avenger of blood. Yet, where he or she had enforced talion by unauthorized means, the murderer shall have the right to retaliate, subject to meeting the requisites for body organ talion including lack of fear of causing demise of the avenger of blood; and the right of the holder of the right to enforce talion by execution shall remain unaffected, too. However, the murderer shall exercise his or her right; make settlement or remission, prior to enforcement of talion. Nonetheless, the murderer shall have no right to retaliate, in case the avenger of blood is unwilling to enforce talion again. Should the murderer disagree with remission, settlement and exercise of his or her right in an attempt to evade enforcement of talion, the court upon complaint of the avenger of blood regarding this situation will set a reasonable time, and will notify it to the murderer, within which respite he or she shall make remission or settlement, or apply for body organ talion. Should he or she fail to take action within that respite, the avenger of blood shall be sentenced to the discretionary punishment laid down in law, and talion by execution will be enforced, at his or her request, and the right to enforce talion will be inherited by the heirs of the felon.

**Chapter Three:
Enforcement of Body Organ Talion****Article 439**

The devices for amputation and dismemberment in body organ talion shall be sharp, unpolluted and suitable for enforcement of talion; and, harming the perpetrator for more than the extent of felony shall be forbidden and will be punishable by the discretionary punishment laid

down in the law. Should the perpetrator be ill, or in case the circumstances of time and place are of the kind that in case talion be enforced, there will be a fear of loss of life or other injury, talion may be enforced after removal, if possible, of the obstacles. Otherwise, execution of talion will be postponed until after the fear of spread of illness will have been removed.

Article 440

Body organ talion may be enforced immediately. However, where there had been no knowledge of spread and talion was enforced, and thereafter, the felonious injury spread and *mens rea* is deemed to have been involved in the emerged spread, the perpetrator will be sentenced to talion by execution or body organ talion as the case might be. Yet, the avenger of blood shall pay the wergild for the felony inflicted upon the perpetrator as body organ talion; and in case the spread is deemed to lack in *mens rea*, the culprit will be sentenced to the wergild for the felony emerged by spread, from which there shall not be deducted the wergild for the part in respect of which talion has been enforced.

Article 441

In order to observe parity between body organ talion and the felonious injury, the extent of wound shall be exactly measured, and anything hindering enforcement of talion or causing excess thereof shall be removed.

Article 442

Should the perpetrator cause excess of talion over felonious injury by moving or otherwise, the retaliator shall not be liable in respect thereof; and, should the retaliator or any other individual cause the

excess, he or she will be sentenced to talion or wergild, as the case might be.

Article 443

Where a pregnant woman is sentenced to body organ talion and there is a fear of abortion or injury to the baby, prior to or after parturition, enforcement of talion will be postponed until the time when such fear will have been removed.

Article 444

The victim shall have the right to execute body organ talion without anesthetizing or making the body organ senseless, save where the felony was committed when the victim was in anesthesia or his or her body organ was senseless.

Article 445

It shall be authorized to have the perpetrator treated and anesthetized or to make his or her body organ senseless after talion is enforced.

Article 446

Should a person chop off the whole or part of another person's body organ and the victim reattaches it by grafting, talion will not be obviated.

Article 447

In all the items in this Part where reference is made to Book Five: Discretionary Punishments, action shall be taken as regards premeditated murder in accordance with Article 612 of that law and in respect of other premeditated felonies in consonance with Article 614 and Note thereof.

BOOK FOUR: WERGILDS

PART ONE: GENERAL PROVISIONS

Chapter One: Definition of Wergild and Instances thereof

Article 448

Wergild is a specified property that has been prescribed in the holly religion on account of unpremeditated felony against life, a body organ or use thereof, or that of premeditated felony in the instances where for any reason no talion is allowed.

Article 449

Mulct is an unspecified wergild the amount of which having not been determined by the divine law, is determined by the court, considering the type and manner of the crime; its impact on the health of the victim; and, the amount of damage sustained, taking into account the amount of fixed wergild, and by inviting an expert opinion. The provisions regarding fixed wergild equally apply to mulct, save where otherwise is provided in the present law.

Article 450

Wergild shall be paid upon request of the victim or avenger of blood in respect of quasi delict, culpa fault (*levissima culpa*), and premeditated murder where talion is either not allowed or is infeasible, save where otherwise is settled.

Article 451

Where a murderer is an heir to the murdered person, he or she will not inherit any part of the latter's estate or that of the murdered person's wergild, where the murder was a premeditated one, and that of his or her wergild, where it was culpa fault (*levissima culpa*) or quasi delict. The heir will be the Leader in the instances where no other heir exists.

Chapter Two: Wergild Civil Liability

Article 452

Wergild constitutes as the case might be the personal right of the victim or the avenger of blood and to it applies the provisions and effects of *la responsabilite civile* or civil liability. The perpetrator's liability will not be discharged save by any of payment of wergild, reaching settlement, being released and making set off.

Note

The murdered person's heirs, except for maternal relatives, will inherit the murdered person's wergild, in the same proportion as their shares of the inheritance.

Article 453

Where two or more persons jointly perpetrate a felony requiring payment of **weregild**, the *particeps criminis* or their Parental or paternal kinsmen, as the case might be, will be equally required to pay the wergild.

Chapter Three: Evidence for Establishing Wergild Obligation

Article 454

Evidence required for establishing obligation to pay wergild, in addition to sworn testimonies, shall be the same evidence required for establishing existence of debts and financial liability.

Article 455

Perpetration of premeditated murder punishable by wergild, as set forth in the Section on Talion, is established by sworn testimonies of fifty men and that of manslaughter by sworn testimonies of twenty-five men, only in case of existence of circumstantial evidence creating reasonable suspicion and nonexistence of any additional evidence other than compurgation by the denying accused person.

Article 456

A victim of felonies against body organs and uses thereof, whether with or without *mens rea*, in case of existence of circumstantial evidence creating suspicion and nonexistence of any additional evidence other than compurgation by the denying accused person, may establish perpetration of the alleged felony by the following number of sworn testimonies and seek payment of the wergild prescribed for it; yet, such evidence will not establish a right to execute talion:

- a. Six sworn testimonies in respect of a felony the wergild for which equals full wergild;
- b. Five sworn testimonies in respect of a felony the wergild for which equals five-sixth of the full wergild;
- c. Four sworn testimonies in respect of a felony the wergild for which equals two-third of the full wergild;
- d. Three sworn testimonies in respect of a felony the wergild for which equals a half of the full wergild;

- e. Two sworn testimonies in respect of a felony the wergild for which equals one-third of the full wergild;
- f. One sworn testimony in respect of a felony the wergild for which equals one-sixth of the full wergild, or less;

Note 1

As regards each of the foregoing clauses, the victim, being a man or a woman, may repeat his or her oaths to the number prescribed where the number of people required is not present.

Note 21

As regards each of the foregoing clauses, where the amount of wergild is higher than that prescribed in that clause and less than the one laid down in the preceding clause, the higher number shall be observed.

Article 457

Should the complainant fail to make sworn testimony in the manner specified above, he or she may require the accused to undergo compurgation, in which case the accused will be acquitted by compurgation.

Article 458

The provisions on oath taking in respect of sworn testimony or compurgation shall be the same as the provisions laid down in the Book on Talion.

Article 459

Where the victim or his or her natural guardian alleges that the victim has suffered loss or reduction of the benefit of a body organ as a result of the felony committed, should there be reasonable suspicion and no

access to a trusted expert, and should it be impossible to make certainty producing tests and examinations, the victim's or his or her natural guardian's allegation may be established by compurgation in the manner mentioned above.

Article 460

In case of difference between the perpetrator and the victim or his or her natural guardian regarding return of all or part of the lost or reduced benefit of an organ, should there be no probative evidence, the statement of the victim or his or her natural guardian made under oath shall prevail, and there will be no turn for compurgation to be made.

Article 461

Where the victim has passed away in the course of the period that the trusted expert has set for return of benefit, and the perpetrator alleges that the benefit had returned before demise, while the natural guardians of the defunct deny it, the statement of the victim or that of his or her natural guardian made under oath shall prevail, and there will be no turn for compurgation to be made; and should only certain natural guardians take oath, wergild will become payable in respect of their shares of the wergild.

Chapter Four: Person Liable to pay Wergild

Article 462

The perpetrator himself/herself shall be liable for payment of the wergilds for premeditated felony and quasi delict.

Article 463

As regards culpa fault (*levissima culpa*), the Parental or paternal kinsmen shall be liable to pay the wergild where perpetration thereof is established by evidence, sworn testimony or the judge's knowledge of facts; and the perpetrator himself or herself shall have the responsibility to pay it, where perpetration of the crime is established by his or her own confession or refusal to take oath or undergo compurgation.

Article 464

In the instances where the fact of occurrence of felony has been established by testimony, the judge's knowledge of facts or sworn testimony, should the perpetrator allege that it was a culpa fault (*levissima culpa*) and the Parental or paternal kinsmen deny that the felony was a culpa fault (*levissima culpa*), the statement under oath of the Parental or paternal kinsmen will be accepted and the perpetrator shall be liable to pay wergild. And, should the Parental or paternal kinsmen refuse to take oath, the Parental or paternal kinsmen shall be required to pay wergild, upon swearing of the person making the allegation.

Note

Where a certain number of Parental or paternal kinsmen take oath, they will be exempted from payment of wergild, and their shares of wergild will be paid by the perpetrator.

Article 465

The Parental or paternal kinsmen shall not be required to pay wergild for a person's self-injurious felonies.

Article 466

The Parental or paternal kinsmen are only required to pay wergild for culpa fault (*levissima culpa*), but are not liable for damages arising from despoil of a property wasted by culpa fault (*levissima culpa*).

Article 467

The Parental or paternal kinsmen are not required to pay for the wergilds of felonies that constituted less severe than a wound that has cut through Periosteum and bared the bone, even where the perpetrator was immature or insane.

Note

Where as a result of one or more culpa fault strikes numerous injuries are inflicted on one or more body organs, the criterion for arriving at the amount of wergild for wound that has cut through Periosteum and bared the bone is the wergild for each injury independently; and in order for liability of the Parental or paternal kinsmen to be engaged, it is not sufficient that the aggregate wergilds of all injuries reach the wergild for a wound that has cut through Periosteum and bared the bone.

Article 468

The Parental or paternal kinsmen consist of father, son and male parental or paternal blood relatives in the order of inheritance classes. All the persons who may inherit at the time of death will be equally liable to pay the wergild.

Article 469

A Parental or paternal kinsman will be liable only where he has financial capability at the times of paying wergild installments, in

addition to having a legitimate blood relation, and being sane and mature.

Article 470

Where the perpetrator has no Parental or paternal kinsmen or where his Parental or paternal kinsmen are unable to pay the wergild within the respite set owing to financial incapability, the wergild shall be paid by the perpetrator, and where he or she has no financial capability, it shall be paid out of the public treasury. In this case, there shall be no difference between the wergild for homicide and other crimes.

Article 471

An Iranian person of constitutionally recognized religious minorities living in Iran who commits a culpa fault (*levissima culpa*) felony shall be required to pay wergild in person. However, where he or she is financially incapable to pay the wergild, he or she will be given a reasonable respite for payment; and if he or she is unable to make payment within the reasonable respite too, the equivalent amount of wergild will be paid by the Government.

Article 472

In the instances where the fact of occurrence of felony is established, but the type thereof is not, the wergild will be payable; and the liability for its payment shall lie upon the perpetrator.

Article 473

Where an officer performs an act in discharge of his or her legal duties in compliance with regulations, and the same act results in death or body injury of a person, the wergild shall be paid out of the public funds.

Note

Where a person knowing the risk involved or by fault enters a military restricted area or any other no entry zone and is shot in compliance with the regulations, no civil liability will be engaged; and where he or she had no knowledge of forbidden condition of the said location, wergild will be paid out of public funds.

Article 474

As regards quasi delict, where the perpetrator cannot be accessed owing to death or escape, wergild will be received from his or her assets, and where his or her property is insufficient for payment thereof, it will be paid out of the public treasury.

Article 475

Concerning culpa fault (*levissima culpa*), in the instances where payment of wergild is to be borne by the perpetrator, if the perpetrator cannot be accessed owing to death or escape, wergild will be received from his or her assets, and where his or her property is insufficient for payment thereof, it will be paid out of public treasury.

Article 476

In the instances where the perpetrator himself/herself is liable to pay wergild, in case the perpetrator has passed away, wergild shall be subject to the rules governing other debts of the deceased.

Article 477

In the instances where it is generally known that a felony was committed by one of two or more persons, should there be reasonable suspicion regarding commission thereof by certain individuals from among those general knowledge about them is available, action will

be taken in accordance with the provisions on sworn testimony and compurgation; and, where no reasonable suspicion exists, the holder of the right may require the accused persons to make compurgation, which should all of them take oaths, wergild will be paid out of public funds if the felony involved murder, and will be received from the accused persons on equal basis, if the felony was other than murder.

Note

Where the general knowledge is originated from the accused persons' confessions, the avengers of blood or the victim as the case might be shall have the option to refer to each of the accused persons for receiving the wergild; and in this respect there shall be no difference between premeditated murder and slaughter, and between murder and other felonies.

Article 478

Where all or certain individuals in respect of whom general knowledge is available refrain from taking oath or making compurgation, the wergild shall be paid on equal shares by refusing individuals; and where only one refuses, he or she, alone, will be liable to pay the wergild. As regards this provision, there shall be no difference between murder and other felonies.

Article 479

Where a person has been murdered or injured as a result of the action of a number of persons, and perpetration of the felony is attributable to certain of those actions, without the perpetrator of each action having been identified, all of them shall pay the wergild for homicide or the wergild for injuries on equal basis.

Article 480

In the instances of reasonable suspicion, where it is a possibility of proving by sworn testimony perpetration of a felony by a certain person from among those persons general knowledge about whose actions is available, the matter will be dealt with in accordance with sworn testimony/compurgation provisions.

Article 481

Where the victim or the avengers of blood allege(s) that the perpetrator was an unidentified person from among a certain number of two or more persons, and should reasonable suspicion arise, the complainant may take sworn testimony. The sworn testimony having been made, the perpetrator will be identified by general knowledge, and the provisions of the preceding Articles will apply.

Article 482

In the instances where general knowledge is available on attribution of perpetration of felony to one among two or more persons, and it is impossible to identify the perpetrator, should the felony be a premeditated one, talion shall be set aside, and a sentence shall be issued ordering payment of wergild.

Article 483

Where after a person confessed to have perpetrated a felony punishable by wergild, another person confesses to have committed the same felony, and where no detailed knowledge is available proving that either confession is falsified, the complainant will have the option to seek payment of wergild only from either of the two.

Article 484

In the instances where a murder had been committed, but the murderer was not identified; and reasonable suspicion having arisen, there was the turn for compurgation by the accused, and the accused has made compurgation, wergild shall be paid out of public treasury. And, where in the instances other than where reasonable suspicion is created, there be a turn for the accused to make compurgation, and he or she swears in accordance with the regulations not to have committed the murder, wergild will be paid out of the public treasury.

Article 485

Where a convict sentenced to body organ talion, discretionary punishment, or fixed corporal punishment other than execution is killed as a result of enforcement of the punishment or injuries in excess of the punishment to which he or she was sentenced, in case the homicide or injury is committed with *mens rea* or is evidenced to be due to fault, the person executing the sentence will be sentenced to talion or wergild, as the case might be. Otherwise, no liability will be engaged in respect of talion and fixed corporal punishment; and wergild will be paid out of the public treasury funds in respect of discretionary punishment.

Note

No civil liability will be engaged where infliction of additional injury is attributed to the convict.

Article 486

Should after execution of a talion, fixed corporal punishment, or discretionary punishment sentence that has caused homicide or body injury, the case be retried in a competent court in accordance with the provisions of the Code of Civil Procedure, and should it be established

that the sentence was unwarranted, the retrying court will enter a judgment requiring payment of wergild out of public treasury funds, and, stating the evidence, will remand the case to the respective judicial form for trial in accordance with the provisions of law. Should the *mens rea* or fault of the judge rendering the final sentence be established, he shall be liable, and will be sentenced by the said judicial forum to talion or to the discretionary punishment laid down in Book Five: Discretionary Punishments, as the case might require, and to return of wergild to the treasury.

Article 487

Where a person is murdered and the murderer is not identified or where he or she is killed in stampede, the wergild will be paid out of the public treasury funds.

Chapter Five: Grace Period for Payment of Wergild

Article 488

Save where otherwise is agreed, the time limitation for payment of wergild effective from the date of commission of the felony shall be as follows:

- a. Within one lunar year, for premeditated murder;
- b. Within two lunar years, for quasi delict;
- c. Within three lunar years, for culpa fault (*levissima culpa*).

Note

Where the payer agrees to payment of all or part of the wergild within the grace periods set, the judgment creditor shall accept it.

Article 489

The payer shall pay in culpa fault (*levissima culpa*) cases a third of the wergild in the course of a year, and in culpa fault (*levissima culpa*) cases a half of the wergild within a year.

Article 490

In case the payer wishes to pay any type of wergild and/or where payment of wergild is by installment, the basis for payment shall be the amount thereof at the time of payment, save where a definite amount has been agreed upon.

Article 491

In the instances where the perpetrator of a premeditated felony and the avengers of blood or the victim have agreed on receiving wergild, yet no time limit for its payment is set, the wergild shall be paid within one year from the date of agreement.

Chapter Six: Causes of Civil Liability**Article 492**

Commission of a crime shall be punishable by talion or wergild, if the yielded result is attributed to the action of the perpetrator, whether by having been committed by the perpetrator acting as the principal, on the ground of causality, or both.

Article 493

The existence of time interval between the action of the perpetrator and the result arising from it, such as death arising from a fatal disease, which as the case might be is punishable by talion or wergild,

shall not prevent occurrence of felony. The provisions of this Article and Article 492 of the present law shall apply to all crimes.

Article 494

Being principal in a crime means that the felony was committed directly by the perpetrator, in person.

Article 495

Where a physician causes death or body injury in the course of treatments that he or she does, he or she will be liable to pay wergild, save where his or her action conforms to medical regulations and technical standards, or where he has obtained release in advance of the treatment and commits no fault either. And, where receiving release from the patient is invalid owing to his or her immaturity or insanity, or obtaining release from him or her is infeasible due to anesthesia and the like, release will be received from the patient's guardian.

Note 1

A physician shall bear no civil liability if he or she had no negligence or fault, even though he or she had obtained no release.

Note 2

Guardian of patient includes his or her natural guardian such as the father, and public guardian, which is the Leader. In the instances where there is no natural guardian or where the natural guardian is out of reach, the Judiciary Chief, having been authorized by the Leader and having re-delegated the power to respective public prosecutors, may take action for granting releases to physicians.

Article 496

A physician shall be considered liable for the orders to the patient or nurse and the like that he or she makes to be carried out, should they result in demise or body injury, save where he or she acts in accordance with Article 495 of the present law.

Note 1

In the foregoing instances, where the patient or the nurse knows that the order is erroneous and will engender injury and demise, yet acts according to the order, the physician shall not be liable, but rather the injury shall be attributed to the patient or the nurse.

Note 2

As regards dismemberment or wounds made in medical treatments, action shall be taken in accordance with Article 495 of the present law.

Article 497

Under emergency circumstances that receiving release is not possible, and the physician takes action for treatment in accordance with regulations, no one shall be liable for demise or injuries inflicted.

Article 498

Where an object carried by a human or a vehicle causes commission of a felony in any manner, the carrier will be liable.

Article 499

Where a person frightens the other, as a result of which that person flees or makes a movement that results in infliction of injury upon oneself or another person, the frightening person shall be liable under the definitions of premeditated and unpremeditated felonies.

Article 500

There shall be no civil liability in the instances where perpetration of felony is not attributed to the action of any person, such as when it occurs out of natural disaster causes.

Article 501

If a person aims a weapon at somebody or agitates an animal such as a dog to attack him or her or does any other act, such as shouting or making explosive sound that makes him or her frightened, and as a result thereof the latter dies or becomes injured, that person shall be sentenced to talion or wergild, as the case might be, based on the definitions of various types of felony.

Article 502

Where a person jumps off a height and falls on a person, whereby engendering commission of a crime, he or she will be sentenced to talion or wergild, as the case might be based on the definitions of various types of felony. However, where he or she did nothing and being thrown out due to natural disaster causes such as hurricane and earthquake, hits another person and inflicts injury upon the latter, no one shall be liable therefor.

Article 503

Should a person throw another one to a third person, and the third person or the thrown person passes away or becomes injured, in case the act does not fall under the definition of premeditated felony, it constitutes a quasi **delict**.

Article 504

Where a skilled driver moving at a permitted and safe speed, and while observing other regulations is unable to control the vehicle and crashes without a fault on his or her part into a person whose presence in that location was not allowed, no liability shall be engaged. And, otherwise, the driver shall be liable.

Note 1

In the foregoing instances, the driver shall not be liable in cases where nonobservance of certain traffic regulations had not contributed to the accident in such manner that the fault of the perpetrator was not the cause of the crime occurred.

Note 2

The provision of this Article shall equally apply to other devices and tools.

Article 505

Where passengers of a vehicle were injured or passed away in the course of driving due to accidents such as vehicle overturning and/or barrier crashing, the driver shall be liable for payment of wergild, provided that the accident had not been caused by natural disasters such as earthquake and flood but was attributed to the driver. Where occurrence of accident is attributed to another juridical or natural person, that same person shall be liable.

Article 506

Causality in felony means that a person causes another one to pass away or be injured, but does not directly commit the crime directly, in a manner that absent his or her act, the felony would not have

happened, such as when he or she had dug a well and a person fell into it and was injured.

Article 507

Where a person has dug a pit in public roads and places or in another person's landed property without the owner's authorization, has placed a sliding object on them, and/or has done any act whereby inflicting injury upon the other person, he or she shall be liable for payment of wergild, save where the injured person had crashed it deliberately, knowing its existence and having the possibility of avoiding it.

Article 508

Where a person does one of the acts mentioned in Article 507 of the present law in his or her own landed property or in a place in his or her own possession and disposal, and causes injury to another, he or she shall not be liable, save where he or she had called a person who was not aware of it to that place and a crime was inflicted upon that person on that basis.

Note 1

Where an injured person entered a property without authorization of the owner or with the authorization that he or she had obtained from the owner before the abovementioned acts were done and where the owner had no information about his or her entry, the owner shall not be liable, save where the injury or death is attributable to the owner owing to enticement, negligence in giving information and the like.

Note 2

Where a person does one of the acts mentioned in Article 507 of the present law in another person's landed property and without the latter's authorization, and where a third person who had no authorized entry is injured, the perpetrator shall bear the responsibility for paying the wergild, save where occurrence of the accident and injury was attributed to the injured person himself or herself, such as where the perpetrator had placed a warning sign or locked the door to the place, but the injured person entered without noticing the signs or by breaking the door.

Article 509

Where a person did an act in the interest of passers in roads or public places in compliance with provisions of law and by observance of safety considerations, and accidentally caused occurrence of a felony or damage, he or she shall not be liable **therefor**.

Article 510

Where a person with the motivations to do charity works and to help another person performed an act required for protecting the latter's property, life, honor or chastity, and the same act caused injury and/or damage, he or she shall not be liable, where provisions of law and safety issues have been observed.

Article 511

Any person who stays in his or her own landed property or stops in a road stopping in which is authorized or puts his vehicle or any other authorized object there and a person crashes into them and becomes injured or killed shall not be liable; and should any damage be inflicted on him or her or his or her property, the crashing person shall be liable.

Article 512

Where a person stops in places wherein stopping is forbidden, places an object and/or animal in such places or puts sliding objects in them, and the other without noticing such objects and/or animals becomes injured or killed or undergoes financial damage as a result of crashing or sliding, the person who has stayed or put that object or animal there or who has made the road slippery shall be liable for payment of wergild and other damages, save where the passer, notwithstanding the wideness of the road and place deliberately crashed it, in which case he or she will not be entitled to receive damages; but rather shall also pay compensation for the damage inflicted.

Article 513

Where a person who had been suspiciously called upon and taken out of his or her place of residence at night was lost, the inviter shall be liable to pay his or her wergild, save where he or she could establish that the invitee was alive; if dead, his or her death was natural or caused by natural disasters not related to that person; or if murdered, was murdered by another person. This provision also applies to a person who has kidnapped another by deceit or threat or by any other means, where the latter is lost.

Note

Where after having received the wergild, it becomes clear that the lost person is alive, and/or where the murderer becomes identified, the wergild will be reimbursed; and, should it be established that the inviter has premeditatedly murdered the lost person, talion will be enforced against the inviter.

Article 514

Where a barrier is emerged as a result of natural disasters such as flood and earthquake and causes injury, no one will be liable, even where a person or certain persons might have the ability to remove it; and, where flood or the like brings in some object; but, another person moves it to an unsuitable place as the initial location or place it in a worst position that causes injury, he or she will be liable to pay wergild for the sake of expediency of passers; and, should he or she remove it from unsuitable place and put it in a more suitable location, he or she will not be liable.

Note 1

Where the said barrier was made by a person, the person changing the condition into a more suitable state will not be liable, either.

Note 2

Individuals or organs that have the responsibility of correcting or removing effects of those accidents shall be liable, should they make attributable default or negligence in performing their duties.

Article 515

Where it accords to the usage to put goods outside a shop, to park a car in front of a house, and the like, the person who has put goods or parked a car shall not be liable for losses inflicted, if there was no legal prohibition against it; the road was wide; and it created no inconvenience for passers.

Article 516

Where a person places an object in a place, such as on a wall or in the balcony of his or her own real property wherein placement of objects is authorized, and where that object falls down in a public road and/or

in another person's real property and causes injury or damage, no liability will be engaged, save where he or she has put it in such manner that typically is apt for causing injury or damage.

Article 517

Where the owner or a person charged with the duty of erecting a real property having constructed a building, or a balcony and the like in an authorized manner in compliance with safety points and technical standards required for strengthening the building in a permitted location, yet, incidentally causes injury or damage, he or she shall not be liable.

Note

Where the unauthorized action is of the manner that cannot be imputed to the owner; e.g., where it is attributed to the respective civil engineers, no civil liability shall be engaged; and the person to whom the action is attributable shall be liable.

Article 518

Where a person having constructed a building or a wall on strong foundation and in compliance with the regulations required for strength of buildings and safety, that building or wall collapses due to unexpected events such as earthquake or flood and causes injury, that person shall not be liable; and, where he or she has constructed the wall or the building towards his or her own property, so that if collapsed, it would fall in his or her own property; but incidentally, it falls towards another direction and causes injury, that person shall not be liable.

Article 519

Where a wall erected on firm and straight foundation is about to be collapsed or is getting collapsed towards another person's property or a road, there should be no civil liability, if it collapsed and caused injury before the owner had acquired the capability to correct or destroy it, provided that he or she had informed the individuals exposed to injury beforehand. The owner shall be liable, should he or she neglect, despite having the capability to correct or remove it, or give information and prevent infliction of injury.

Note

Where the wall or building that collapsed belonged to a minor or insane, his or her natural guardian will be liable; and, where the said building was a public and governmental building, the administrator and the person in charge thereof will be liable.

Article 520

A person who makes another person's wall or building collapsible without his or her authorization shall be liable for injury and damage arising from its collapse.

Article 521

Where a person makes fire in his or her own real property or in another authorized place, knowing that it will not extend to elsewhere, and typically it does neither, yet incidentally the fire extends to another place and causes damage and injury, no liability will be engaged. Otherwise, he or she shall be liable.

Article 522

The possessor of every pet, where he or she is aware of the probability of its attack, shall keep hold of it; and will be liable, if the said animal

injures another person as a result of his or her fault. Nevertheless, he or she would not be liable, if he or she was not aware of the probability of the animal's attack and lack of knowledge did not arise out of his or her fault.

Note 1

Keeping a pet that a person has no ability to control shall be deemed to be a fault.

Note 2

Keeping a hazardous instrument or object that makes others exposed to injury and that the person is not able to keep hold of and to prevent it from injuring others shall be subject to the provision of Note 1 to the present Article.

Article 523

Where a person, having been authorized by another person who had the right to give such authorization, enters a house or a place in the latter's possession and is injured and damaged by an object or an animal in that place, the authorizing person shall be liable, notwithstanding whether the object or the animal having already been there before authorization or is placed in that location subsequently, and whether he or she was aware of injurious nature thereof or not.

Note

Liability would not be engaged in the instances where the injury was attributable to the injured person, such as when the entering person knew that the said animal was dangerous and that the authorizing person was unaware of its condition or was unable to remove the danger.

Article 524

Where a person riding an animal leaves it in public roads or other unauthorized places, that person will be liable for any damage inflicted by that animal, which is attributable to the act of that person; and, where the animal's bridle is in the hands of another person, the bridling person shall be liable in the manner stated above.

Article 525

Where a person takes an action that causes an animal to become agitated or terrified, he or she shall be liable for felonies that the animal inflicts as a result of incitement or fright, save where the said action can be termed as a legitimate self defense.

Article 526

Where two or more perpetrators, some of them directly, some by causality contribute to occurrence of a felony, the perpetrator to whom the felony is attributed shall be liable; and, where the felony is attributable to all perpetrators, they will be liable equally, save where the impact of the action of perpetrators differ, in which case each perpetrator shall be liable to the extent of contribution of his or her action. Where the direct perpetrator of a crime lacked free will or was ignorant, undiscerning minor, insane and the like, only the direct perpetrator shall be liable.

Article 527

Where two persons are killed or injured as a result of direct collision with each other, should the impact of either in collision be the same, a half of wergild of each shall be paid out of the assets of the other, if committing a culpa **delict**, and a half of wergild shall be paid by the Parental or paternal kinsmen, if perpetrating a culpa fault (levissima

culpa). And, where only one of them is murdered or injured, a half of the wergild shall be paid by the parental or paternal kinsmen or by the perpetrator in person to the victim or avengers of blood, as the case might be.

Article 528

Where as a result of collision between two land, water or air means of transportation, the driver or passengers are killed or injured, should the collision be attributed to both drivers, either will be liable to pay a half of the wergild of the confronting driver and passengers of both the means of transportation; and where three transportation means collide, each driver shall be liable to pay a third of the wergilds of the confronting drivers and passengers of the three transportation means. And, in this same manner, there shall be calculated the wergilds for more transportation means. And, where one of the parties is guilty to such extent that collision was attributed to him or her, only that party shall be liable.

Article 529

In all the instances where fault causes civil or criminal liability, the court shall establish attribution of the result obtained to the perpetrator's fault.

Article 530

Where collision between two or more persons or transportation means were made by force *majeure* events such as flood and hurricane, no liability will be engaged.

Article 531

In the instances where occurrence of the accident is attributed to one of the parties, such as when one of the parties was so slowly moving that no effect could be attributed to it, only liability of the party to whom the accident attributes shall be engaged.

Article 532

As regards collision of two transportation means, where the action(s) of either or both fall(s) under the definition of premeditated felonies, a talion or wergild sentence, as the case might be, will be rendered.

Article 533

Where two or more persons cause perpetration of a felony or infliction of damage upon another by collaboration in such manner that the felony or damage could be attributed to both or all of them, they shall be equally liable.

Article 534

Where two or more persons collide as a result of making a barrier or a cause and are injured or killed owing to collision, the causer shall be liable.

Article 535

Where two or more persons, doing an unauthorized act, are involved in committing a crime by causing it in sequential order, the one the effect of his or her act preceded the effects of the other or other cause(s) shall be liable, e.g., where one of them had dug a pit, and the other put a rock beside it, and a passerby fell into the pit by hitting the rock, the one who placed the rock shall be liable, save where all of them had the *mens rea* to commit the crime, in which case it will constitute joint criminal enterprise in crime.

Article 536

Where in respect of Article 535 of the present law, the act of either person is unauthorized and that of the other is authorized, such as where a person puts an instrument or something beside a road, which is a permitted act; and the other digs at the side of it, which was an unauthorized act, the person whose act was unauthorized shall be liable. Where an act of a person was committed after that of the first one, knowing that creation of that cause beside the first cause will result in injuring others, the second person shall be liable.

Article 537

In all of the cases mentioned in this Chapter, where the felony is exclusively attributed to the deliberate act and/or fault of the victim, no liability shall be engaged. In the instances where perpetration of the principal felony had been attributed to the deliberate act or fault of the perpetrator, but its spread was attributed to the deliberate act and/or fault of the victim, the perpetrator shall not be liable for the spread thereof.

Chapter Seven: Overlap and Plurality of Wergilds

Article 538

The principle in respect of plurality of crimes is that such crimes shall be punishable by plurality of wergilds and that such wergilds shall not overlap, save in the instances otherwise provided in the present law.

Article 539

Where a victim passes away as a result of the spread of unpremeditated injury or injuries, where one of his or her body organs

is cut off, or where he or she undergoes a more severe injury, action shall be taken as follows:

- a. Where only one injury was inflicted, only the wergild for homicide, body organ or the higher injury shall be warranted;
- b. Where multiple injuries are inflicted, should death, severance of body organ or higher injury occur as a result of spread of all injuries, only wergild for homicide or body organ or the higher injury shall be warranted; and, where death, body organ severance or higher injury was caused by spread of some of injuries, the wergilds for spread injuries in the wergilds for murder, for body organ or for higher injury will overlap; and the wergilds for non-spread injuries shall be calculated separately and payment thereof shall be ordered.

Article 540

Where the inflicted injury was premeditated and typically would not be lethal or result in body organ severance or a higher injury, yet it incidentally spreads, wergild shall be paid for the higher felony, in addition to the right to enforce talion or receive wergild in respect of the less severe premeditated felony. For example, where a person premeditatedly cuts off another person's finger and it incidentally spreads and results in the victim's death or severance of his or her hand, wergild for homicide or wergild for the hand of the victim shall be paid in addition to the right to enforce talion or receive wergild for the finger.

Article 541

Where as a result of a strike or any other action, numerous injuries are made in body organs, depending on whether each is in a different organ or all are in one organ but each with a variable type of injury, or are of one the same type but in two or more separate locations of a body organ, each injury shall have a separate wergild.

Article 542

Where numerous injuries are made as a result of numerous acts, each injury shall have a separate wergild.

Article 543

Should all of the following requisites be met, the wergilds of numerous injuries overlap, and only one wergild will be warranted:

- a. All the injuries inflicted, such as numerous fractures or numerous wounds are of the same type;
- b. All injuries are in one the same body organ;
- c. Injuries are joined together or are so closed that are customarily deemed to be one injury;
- d. All injuries are produced by one the same act of the perpetrator.

Article 544

Where as a result of one or more act(s), numerous benefits are lost or undergo defect, such as where as a result of a strike on the head, vision, hearing and mind of someone are lost or reduced, each has a separate wergild.

Article 545

Where a benefit is solely dependent on a body organ, should a felony be committed against that organ resulting in loss or despair of that

benefit, only the wergild for the higher benefit shall be payable. Yet, where the benefit was not solely dependent on that organ and there was no correlation between loss of that organ and loss of benefit, though the existence of that organ was effective in enhancing and facilitating the benefit, like pinna and nose that contribute to enhancement of hearing and smelling respectively, and where as a result of cutting off the pinna or the nose audition or smelling is lost or becomes defective, each shall have a separate wergild.

Article 546

Where as a result of infliction of a strike or a wound a larger injury is developed, e.g., where mind is lost as a result of head fracture, if the wound was the source and the cause of loss of and deficiency in the benefit, the wergild of the strike or wound will overlap with that of the higher wergild in case it occurred by one strike or wound, and only the wergild for loss of or deficiency in the benefit, which is higher, shall be paid. And, where loss of benefit and deficiency therein were developed by additional strike or wound other than the strikes that caused the wound and/or where the inflicted strike or wound was not the cause of loss of or deficiency in the benefit by correlation, and the benefit was incidentally lost or reduced by that strike and wound, each of the strike or the wound and the benefit shall have a separate wergild.

Article 547

Where a profound sore such as bone displacement and/or grave wound occurs at once, only the wergild for the profound wound shall be paid; and where it occurs gradually, that is when initially the lighter wound, such as a wound piercing the flesh and Periosteum and baring the bone, had occurred and then developed into severer wound such as

bone displacement, if the development was owing to spread of the first wound, only the wergild for the severer wound shall be paid; and, should the strike be caused by another strike, notwithstanding whether the two strikes were made by one person or more, each wound shall have separate wergild.

Article 548

The amount of wergild differential of a felony in respect of body organs and benefits thereof shall not be more than the wergild laid down for that body organ or benefit thereof; and, should because of that felony, the benefit or another body organ be lost or a defect be developed in it, separate wergilds will be determined for each injury.

PART TWO: AMOUNTS OF WERGILDS

Chapter One: Wergild for Homicide

Article 549

The cases in respect of which full wergild is payable shall be those prescribed in the divine law provisions, the amount of which wergild shall be determined and declared by the Judiciary Chief in detail based on the Leader's view, at the beginning of each year.

Article 550

The wergild for homicide of a woman shall be a half of that of a man.

Article 551

The wergild of a male pseudo hermaphrodite shall be the same as the wergild of a man; the wergild of a female pseudo hermaphrodite shall be the wergild of a woman; and, the wergild of a bisexual (complex hermaphrodite/ undetermined **intersex**) is a half of that of a man plus a half of that of a woman.

Note

In all felonies where the victim is not a man, the equivalent of wergild difference up to the ceiling of a man wergild will be paid out of Body Damages Provision Fund.

Article 552

An illegitimate person born as a result of fornication shall be tantamount to a Muslim in terms of the provisions on wergild, where either or both parties is/are Muslim(s).

Article 553

The wergild inheriting heir to a person born out of fornication, where he has no children or wife and the fornication was committed with the consent of both parties, shall be the Leader; and, where either party committed fornication by mistake or had been coerced to do so, the same person or his or her relatives shall inherit the wergild.

Article 554

Based on the governance decree of the Leader, the wergild of felony against religious minorities recognized under the Constitution of the Islamic Republic of Iran shall be in the same amount as the wergild of a Muslim.

Article 555

Where both the act of the perpetrator and the decease of the victim have occurred in one of the forbidden months (*Zul Qa`dah, Zul Hajj, Muharram and Rajab*) or within the sanctuary of the sacred Mecca, in addition to the wergild for homicide, the wergild will be increased by a third, notwithstanding whether the felony was premeditated or unpremeditated. Other sanctuaries and sacred and blessed places and times shall not be subject to increased wergild provision.

Note

The criterion for commencement and end of forbidden months is sunset according to the divine law, e.g. the month of Rajab, which

starts from the sunset according to the divine law on the last day of the month of Jamadi us Sani, and ends at the sunset according to the divine law on the last day of the month of Rajab.

Article 556

There shall be no difference between mature and immature, woman and man, Muslim and non-Muslim when rendering increased wergild sentences. Abortion shall also be subject to increased wergild provision, after soul inspiration. Increased wergild shall also apply in cases where parental or paternal kinsmen or the public treasury are payers of the wergild. The same provision also applies to the premeditated murder in cases where wergild shall be paid owing to infeasibility or prohibition of enforcing talion.

Article 557

Increased wergild only applies to homicide, and shall not apply to felonies against body organs and benefits.

Chapter Two: General Provisions on Body Organs Wergild

Article 558

Wergild shall be payable in the manner laid down in the present law in respect of unpremeditated felonies against body organs and as regards premeditated felonies, the punishment of which is not talion, where enforcement of talion in respect of them is not feasible, or where settlement has been reached on payment of wergild and the amount thereof has not been fixed.

Article 559

Where as the result of a felony an injury is inflicted upon a body organ or benefits, payment of the amount set, in case a fixed wergild or a fixed portion thereof is laid down as punishment for that felony in the divine law as set out in the present law; and payment of the mulct, in case no specific amount is set as its punishment in the divine law, may be sought.

Article 560

The wergild of woman and man in respect of body organs and benefits, up to the ceiling of a third of man full wergild, shall be the same; and, should it be a third or more, the woman wergild shall be reduced to a half.

Article 561

Where as a result of one or more strikes numerous injuries are inflicted on one or more body organs, the yardstick for arriving at a third of the wergild is the wergild of each injury separately, save where injuries inflicted upon a body organ is generally considered as one injury and one felony.

Article 562

As to the mulct, there shall be no differentiation between that of a woman and that of a man. However, the amount of mulct fro a felony inflicted upon body organs and benefits of a woman may not exceed the wergild of her body organs and benefits thereof, even though it equals the mulct for the same felony against a man.

Article 563

Full wergild shall be the amount of wergild for destroying a single organ of human body and for both of a pair organ; and, a half of full

wergild shall be the amount of wergild for either of a pair organ, the organs being external or internal, notwithstanding, save where otherwise is provided in law.

Article 564

The fixed wergild equaling two-third of full wergild is the wergild for paralyzing a body organ; and one-third thereof for destroying a paralyzed organ. Mulct shall be determined for relatively paralyzing a body organ where it has lost a percentage of its efficiency, considering the amount of lost efficiency.

Article 565

The wergild for destruction of part of a body organ or the benefit thereof shall be the fixed wergild proportionate to the wergild, in such manner that destruction of a half of the organ shall have a half of wergild, and destruction of a third shall have one-third wergild, save where the law otherwise provides.

Note 1

An amount as mulct shall be fixed in the instances where the lost ratio is not ascertainable.

Note 2

Where the felony makes the body organ in such condition that it shall undergo amputation as diagnosed by an expert, the wergild for cutting off the body organ shall become payable.

Article 566

The wergild for body organs that have been placed in the body organ zone by graft and the like, and that survive like the original organ,

shall be the same amount as the original organ; and should it survive but becomes defective from a different aspect, it shall have the wergild for a defective organ. Destruction of artificial organs shall result in financial liability only.

Article 567

In the instances where action of the perpetrator has caused no injury and defect in the body, nor left any trace of itself in the body, no civil liability will be engaged. Yet in premeditated cases, the perpetrator shall be sentenced to incarceration or flogging discretionary punishment of seventh degree.

Article 568

Should the fracture of a body organ, for which a fixed wergild is prescribed, be cured in such manner that no defect and shortage remains in it, four-twentieth of the wergild of the said body organ shall be payable; and should it be cured with defect and shortage or where no wergild is prescribed for that body organ, a mulct shall be payable, save where otherwise is provided by law.

Article 569

The wergilds for fracture, crack, and splinter of bone of each body organ shall be as follows:

- a. The wergild for fracture of the bone of a body organ shall be one-fifth of the wergild of that body organ; and should it be cured without defect, the wergild shall be four-fifth of the wergild for fracture thereof;
- b. The wergild for splinter of the bone of a body organ shall be one-third of the wergild of that body organ; and should

- it be cured without defect, the wergild shall be four-fifth of the wergild for fracture thereof;
- c. The wergild for crack of the bone of a body organ shall four-fifth of the wergild for fracture thereof;
 - d. The wergild for a wound that penetrates into bone without causing fracture thereof, as well as the wergild for a wound that has cut through Periosteum and bared the bone shall be one-fifth of the wergild for fracture thereof;

Article 570

Where a bone has been fractured, splintered or cracked on several separate spots, should it be generally deemed as numerous felonies, each shall have a separate wergild, even where it was caused by one strike, and the aggregate of the wergilds for the said felonies also exceeds that of the wergild of the body organ.

Article 571

Displacement of a bone on joint should it not result in paralysis or total disability of that body organ shall require payment of a mulct. Otherwise, it shall require payment of two-third of the wergild of the same body organ, and four-fifth out of two-third of the wergild of the that body organ, should it be cured without defect.

Article 572

The wergild for fracture shall be payable, where as a result of perpetration of a felony a small piece is detached from a bone.

Article 573

Where bone injury causes body organ defect or another injury, each shall have a separate wergild.

Article 574

One or more strikes if also causing bone fracture or crack in addition to joint displacement shall be considered two felonies; and each shall have a separate wergild or mulct. The same applies where both bone fracture and a wound such as a wound that has cut through **Periosteum** and bared the bone, penetrating trauma, and/or grave wound is produced in the body.

Article 575

Member graft after commission of a felony shall have no impact on the wergild.

Chapter Three: Fixed Wergild of Body Organs

The First Subject: The Hairs Wergild

Article 576

Full wergild shall be payable for plucking or destroying the whole hair of the head or that of a man's beards in such manner that no hair grows again, and a mulct in respect of the head hair and a third of full wergild as regards the beards, if they re-grow. And, this provision shall apply, irrespective of whether the hairs were sparse or shaggy and belonged to a child or an adult.

Article 577

Full wergild of a woman shall be payable for plucking hair or destroying the whole hair of the head of a woman, should the hair not grow again, and proper dower, if they re-grow. And, this provision

shall apply, irrespective of whether the hairs were sparse or shaggy and belonged to a child or an adult.

Note

Where the amount of proper dower exceeds that of a woman's wergild, only the amount of a woman's wergild shall be paid.

Article 578

Where a part of the hair of a man's or a woman's head has been wiped out in a manner that it does not re-grow, wergild shall be paid proportionately; and, should it re-grow, a mulct shall be paid for the man's head hair; a third of the full wergild for beards; and pro rata part of proper dower for a woman's head hair.

Article 579

No wergild or mulct shall be payable for plucking a woman's or a man's head hair, or a man's beards, where it is done with the consent of the person, or with the consent of his or her natural guardian, where that person's authorization bears no validity, or where it is required on medical emergency grounds.

Article 580

The diagnosis of hair growing and non-growing should be referred to a trusted expert. Had the expert diagnosed that no hair would grow and wergild was paid, and then contrary to his or her opinion was proven, the amount in excess of the mulct or a third of wergild and/or proper dower as the case might be, shall be reimbursed to the payer of the wergild. And, had the expert diagnosed that hair would grow and a mulct, a third of wergild and/or the proper dower, as the case might be, was paid, but the contrary was proven, the difference shall be paid.

Article 581

A fourth of full wergild shall be payable for plucking or destroying eyebrows, should it be done without the consent of the person or the consent of his or her natural guardian, in the instances where that person's authorization bears no validity, or absent an emergency condition permitting it; and wergild differential shall be payable if it re-grows; and should a part re-grows, a mulct shall be paid pro rate to the part re-grown; and, wergild shall be determined proportionately to the extent that it did not grow, taking into account the area thereof.

Article 582

Where a part of the head hair, beards and eyebrows had already been wiped out prior to commitment of the felony, blotting out the remaining part thereof shall be tantamount to destroying a part of the hair.

Article 583

Where the head hair, beards or eyebrows is/ are wiped out as a result of destroying an organ, skin and the like, wergild or felony mulct shall also be paid, in addition to the wergild of hair, beards or eyebrows, as the case might be.

Article 584

Destroying all or a part of eyelid hair or other body hair, re-growing or not, if a defect and deficiency arises, shall require payment of differential; and, where it involves destruction of the organ, peeling of skin and the like, only the wergild or mulct for the hair zone will be paid.

Article 585

Where the head hair of a man or a woman, which has been wiped out, re-grows with defect and deficiency, e.g., where its color or natural condition is changed or where it re-grows sparsely, the differential shall be fixed. The amount of the said mulct as regards beards shall be more than a third of the full wergild and in respect of a man head hair shall be more than the differential that shall be fixed in case it grows without defect. As to a woman's head hair also additional differential shall be paid, in addition to wergild differential, a third of the wergild or proper dower, as the case might be.

Article 586

The criterion for establishment of liability for hair damaging is destruction thereof; and the manner of destruction, e.g., plucking or burning shall have no bearing on this provision.

The Second Subject: Eye Wergild

Article 587

Full wergild shall be paid for taking out and/or destroying two sighted eyes and a half of wergild for each. This provision equally applies to the eyes with sight, even where their vision power might differ, or they might vary on other grounds such as **nyctalopia** or strabismus.

Note

Where existence of a permanent dark spot in eye prevents sight in certain part of the eye, wergild shall be deducted proportionately, where estimation of the size thereof is possible. Otherwise, a mulct shall be paid.

Article 588

Full wergild shall be payable for taking out and/or destroying a single sighted eye of a person who had only one seeing eye, and whose other eye had been congenitally blind and/or destroyed due to non-felonious causes. Nevertheless, where he or she had lost the other eye as a result of enforcement of talion or perpetration of a felony that entitled him or her to receive wergild for it, the wergild for the sighted eye shall equal a half of the full wergild.

Article 589

One-sixth of the full wergild shall be payable for taking out and/or destroying a blind eye.

Article 590

Full wergild shall be payable for all of the four eyelids of the two eyes. The wergilds for each of the upper eyelids shall be one-sixth of the full wergild, and for each of the lower eyelids a fourth thereof.

Note

Where a person destroys both the eye and the eyelid, each shall have a separate wergild.

Article 591

One-sixth of wergild shall be paid for ripping each of the upper eyelids and one-fourth thereof for ripping each of the lower eyelids.

Chapter Three:

Fixed Wergild of Body Organs

The First Subject: The Hair Wergild

The Third Subject: Nose Wergild

Article 592

Cutting off and/or destroying the whole nose or the lobule lying under the nose bone shall require payment of the full wergild. Destruction of the whole lobule with the whole or a part of nose bone, if done at once, shall require payment of full wergild. However, where the nose lobule is destroyed once and the whole or a part of the nasal bone the other time, full wergild shall be sentenced for the lobule and a mulct for the bone.

Article 593

Full wergild shall be payable for nasal bone fracture where it results in nasal infection and destruction thereof. A tenth of the full wergild shall be payable if it cures without defect and deficiency, and a mulct where it has been corrected but with defect and deficiency. A mulct shall be payable for making nose crooked or for fracturing nasal bone, if it does not end in infection of the nose.

Article 594

Full wergild shall be paid for destruction of each of nasal alae or nasal septum between the two nasal cavities.

Article 595

Two-third of full wergild shall be payable for nasal paralysis, and one third thereof for destruction of a paralyzed nose.

Article 596

Spiking the two nasal sides and the nasal sputum, being accompanied with tearing or not, shall require payment of a third of the full wergild, if it does not cause destruction of the nose or apex thereof, and should it be cured, it shall require payment of one-fifth of the full wergild.

Article 597

The wergild for spiking either side of the nose, if not cured, shall be one-ninth of the full wergild, and if cured, one-twentieth of the full wergild. The wergild for spiking either side of the nose or the nasal sputum, if not cured, shall be two-ninth of the full wergild, and if cured, one-fifteenth of the full wergild.

Article 598

The wergild for spiking nose, if it does not cause destruction of the nose or apex thereof shall be one-third of the full wergild, and if cured, one-tenth of the full wergild.

Article 599

The wergild for destroying the apex of nose, which is the place for blood dripping, shall be a half of the full wergild.

The Fourth Subject: Auricle Wergild

Article 600

Full wergild shall be paid for destroying both auricles and a half of full wergild for destroying each.

Note

The wergild for destroying either earlobe shall be one-sixth of the full wergild.

Article 601

One-sixth of full wergild shall be paid for piercing an auricle; and, one-ninth of full wergild for piercing either auricle; and in both instances, a mulct shall be payable in case of full recovery.

Article 602

The wergild for paralyzing either auricle shall be two-third of the wergild thereof; and the wergild for cutting off a paralyzed auricle shall be one-third of the wergild thereof.

Article 603

Where the auricle is cut off in such manner that its underlying bone is revealed, the wergild for a wound that has pierced the flesh and Periosteum and bared the bone shall be paid in addition to the auricle wergild.

Article 604

Sound ears, deaf ears or defective ears the auricle of which is sound, and which have full sense and life are equal in terms of the provisions of the present Chapter.

Article 605

Auricle piercing shall require payment of a mulct; and, where as a result thereof, auditory sense is also lost or reduced, wergild shall also be paid.

Article 606

Where ear injury spreads to auditory sense or engages the bone and causes fracture thereof, each injury shall have separate wergild.

The Fifth Subject: Lips Wergild**Article 607**

The wergild for destroying both lips is full wergild and for each is a half of full wergild. And, the wergild for destroying a part of either lip shall be calculated proportionately to the whole lip.

Note

The limits of upper lip in terms of width is the extent by which it covers the gum, and being connected to two cavities and the nasal sputum, its length equals that of the mouth. The limit of lower lip in terms of width is the extent by which it covers the gum; and its length equals that of the mouth. Cheeks margins shall not be deemed to be part of lips.

Article 608

A felony that causes either of lips or both, or a part thereof, to be constricted shall require payment of a mulct, notwithstanding whether it causes the teeth to become visible or not.

Article 609

A felony that causes either lip to become lose and paralyzed, to such extent that it prevents it from moving aside by laughing and the like shall require payment of two-third of the wergild for each lip; and, destruction of either of lose and paralyzed lips shall require payment of a third of the wergild.

Article 610

Ripping both lips in a manner that causes teeth to be revealed shall require payment of one-third of the full wergild; and, should it be cured without defect, it shall require one-fifth of the full wergild. Ripping of either lip shall require payment of one-sixth of the full

wergild, and in case of recovery without defect, one tenth of the full wergild.

Note

Wounds inflicted on a lip, should they not cause teeth to be revealed and be among the instances of scratch, head bleeding fracture, and rupture in flesh shall be tantamount to those wounds.

The Sixth Subject: Tongue Wergild**Article 611**

Cutting off and/or destroying all of the tongue of a person with talking ability shall require payment of full wergild; and the wergild of destroying a part thereof shall be calculated pro rata to the extent by which talking ability has been destroyed, which shall be computed by dividing the total amount of wergild by the number of letters.

Note 1

The wergild for depriving one of the ability of each alphabetic letter pronunciation shall be determined in view of the number of alphabetic letters of the language by which the victim speaks. For example, the wergild for destroying ability of a Persian language speaker is one thirty-second of the full wergild.

Note 2

A person who suffers from **ankyloglossia** (tongue tie) and/or who speaks slowly or quickly or cannot pronounce certain letters shall be considered to be a person with talking ability.

Article 612

One-third of wergild shall be payable for cutting off or destroying the whole of tongue of a dumb person; and the wergild for destroying a part thereof shall require payment of the same amount of wergild proportionately to the area of the whole tongue.

Note

Dumbness includes both congenital dumbness and dumbness developed as a result of an accident. Yet, any person who is not temporarily able to talk will be deemed to be a person with talking ability.

Article 613

Where a person cuts off a certain part of another person's tongue, whereby making him or her lose the ability to pronounce certain letters; and then, a third person cuts off another part of his or her tongue, thus making him or her lose the ability to pronounce some additional number of letters, either person shall be liable in respect of the number of letters that has engendered loss of ability of pronunciation thereof.

Article 614

Full wergild shall be payable for cutting off and destroying the whole tongue of an infant who has not yet reached the age of talking. Nevertheless, if it becomes subsequently established that he or she was a dumb person, any amount in excess of a third of wergild shall be reimbursed.

Article 615

Where a part of the tongue of an infant who has not yet reached the age of talking is cut, wergild shall be paid proportionately to the area

chopped. However, should it become subsequently established that the infant was dumb, two third thereof shall be reimbursed; and should it become clear that he or she had talking ability, difference shall be paid in case the wergild of the letters pronunciation of which was lost exceeded that of the ratio by which the talking ability had been destroyed.

The Seventh Subject: Tooth Wergild

Article 616

Full wergild shall be paid for all twenty-eight permanent teeth, which is distributed as follows:

- a. Front teeth, which include incisor teeth, the quadruple row of teeth, and canine teeth, of each of which two grow on the upper side and two on the lower side, and which are twelve in total, each shall have one-twentieth of the full wergild;
- b. Rear teeth, which are located at four ending upper and lower sides, each consisting of one premolar and three molar teeth, totaling sixteen teeth, each shall have one-fortieth of the full wergild.

Article 617

A mulct shall be payable for superfluous teeth, whatever name that they might have and in any manner that they might have grown, should any deficiency arise, when pulling them out. And, where no deficiency arises, no differential shall be payable either.

Note 1

Where no deficiency arises in pulling out a superfluous tooth, yet a wound is created, a mulct shall be payable in respect of the said wound.

Note 2

In case it is doubtful whether the plucked tooth was a main or a superfluous one and the superfluous or main tooth nature is not determined even by having referred the issue to an expert, the lesser amount of the main tooth wergild and a superfluous tooth mulct shall be paid.

Article 618

Where the total number of permanent main teeth is less than twenty-eight, the wergild shall be reduced proportionately, notwithstanding whether the number was less by birth or reduced in an accident.

Article 619

The amount of wergild shall not differ according to the colors of teeth that have different colors. And, where as a result of a felony, a tooth turns black but does not fall, the wergild for it shall be two-third of the wergild for the same tooth; and, the wergild of an already blacked tooth shall be one-third of that of the same tooth.

Note

In case a tooth color had changed without it having turned black or lost use, the amount of mulct shall remain unchanged; and, should a person pluck that tooth thereafter, he or she shall give the full wergild for the same tooth.

Article 620

Making crack in a tooth or loosening it, where amounting to destruction thereof, shall require payment of wergild for the same tooth. Otherwise, it shall require payment of a mulct.

Article 621

Pulling out a loose or cracked, but still usable tooth shall require payment of wergild for the same tooth; otherwise, it shall require payment of a mulct.

Article 622

Fracture of part of a tooth that is visible and maintaining the root shall require payment of the wergild of the same tooth; and, a mulct shall be fixed in case the root is pulled out after fracture, being the perpetrator the same who had broken the visible part of the tooth or another person.

Note 1

Fracture of a portion of visible part of a tooth shall require pro rata payment of wergild.

Note 2

Where part of a tooth pulled out as a result of a felony or an accident had already been destroyed, the tooth wergild shall be reduced, proportionately.

Article 623

The wergild for pulling out a deciduous tooth shall equal one hundredth of the full wergild, save where as a result of its removal no permanent tooth grows, in which case full wergild of the permanent tooth shall be paid.

Note

Fracture, making defective and ripping out a deciduous tooth shall require payment of a mulct.

Article 624

Upon pulling out a permanent tooth, payment of wergild for the same tooth shall become payable, even where another tooth is grown in place thereof resembling the *status quo ante*. And, where a person pulls out the re-grown tooth again, he or she shall pay full wergild of the same tooth.

Article 625

Where in place of a pulled out tooth another tooth or the same tooth is grown and finds sense and life, pulling out that other tooth shall require payment of the same tooth wergild. Nevertheless, where it has no sense and life, removal thereof shall result in civil liability.

The Eighth Subject: Neck Wergild

Article 626

Tilting and bending neck as a result of fracture, should it not be cured and the neck remains in the same condition require payment of full wergild; and should it be cured and the bended and tilted state be corrected, will require mulct.

Article 627

Neck fracture without tilting and bending it shall require payment of mulct.

Article 628

Felony against neck that prevents food swallowing or chewing or engenders defect in it, or prevents neck movement shall require payment of mulct.

The Ninth Subject: Jaws Wergild

Article 629

Full wergild shall be paid for chopping and/or destroying the two left and right jaws that are the place on which lower teeth grow; a half of full wergild shall be paid for chopping and/or destroying each; and, the proportionate part thereof shall be paid for chopping and/or destroying part of a jaw.

Article 630

Wergild for jaws is independent from wergilds for teeth and other members of the body; and, where tooth or other parts of the body are destroyed or injured, together with the jaws, each shall have a separate wergild or mulct.

Article 631

Any felony that causes slowness in jaws movement shall be punishable by mulct. And, should it prevent chewing or produce defect in it, the mulct thereof will also be added thereto.

Article 632

Mulct shall be paid for destroying the whole or part of the upper jaw.

Article 633

The provisions on bone fracture shall equally apply to the lower jaw bone fracture and those of head and face bones fracture to the upper jaw bone fracture.

Article 634

Two third of full wergild shall be payable for paralyzing the lower jaw. And, one third of full wergild is the wergild for chopping off a paralyzed jaw.

The Tenth Subject: Hand and Foot Wergilds

Article 635

A half of full wergild shall be payable for chopping off and/or destroying each hand from wrist joint, provided that it had all the fingers, notwithstanding whether the victim had two hands or one hand due to any cause.

Article 636

A half of full wergild shall be payable for chopping off all fingers of a hand at the fingers joints or cutting off a hand at the wrist.

Article 637

Mulct shall be payable for chopping and/or destroying a hand palm that due to any cause is without fingers.

Note

chopping and/or destroying the palm of a hand with less than five fingers shall require payment of the wergild of fingers plus pro rata part of hand palm mulct, in the sense that where the hand from the wrist has one finger, four fifth of hand palm mulct in addition to the

wergild of one finger; where it has two fingers, three fifth of hand palm mulct in addition to the wergild of two fingers; where it has three fingers, two fifth of hand palm mulct in addition to the wergild of three fingers; and, where it has four fingers, one fifth of hand palm mulct in addition to the wergild of two fingers shall be payable.

Article 638

Chopping off a hand with forearm at elbow, whether the hand had a palm or not, shall require payment of a half of full wergild; and, chopping of a hand with arm at the shoulder, whether the hand an elbow or not, shall require payment of a half of full wergild.

Article 639

Should a hand with fingers be chopped off at a spot higher than the wrist joint, also, should a hand with forearm be copped off at a spot higher than the elbow, it shall be required, in addition to a half of full wergild, the mulct of the excess part cut off.

Article 640

Chopping off the dominant hand of a person with a superfluous hand from wrist, elbow or shoulder shall require a half of full wergild; and chopping off the superfluous hand shall require mulct. It lies upon a trusted expert to determine which of the hands is dominant and which of them is superfluous.

Article 641

The wergild of main fingers of a hand is one-tenth of full wergild.

Article 642

Cutting or destroying each phalanx of a finger, other than thumb, shall require payment of one-third of wergild for that finger, and that of the thumb, a half of the thumb wergild.

Article 643

The wergild for a superfluous finger shall be a third of that of the main finger. The wergild for every superfluous finger phalanx shall be a third of the wergild of the same in a main finger; and, the wergild for every superfluous phalanx in a main finger shall be a third of the wergild of a main phalanx of the same finger.

Note

In case of defect in a finger phalanx, the amount of wergild shall be deducted, proportionately.

Article 644

The wergild for paralyzing each hand shall be two- third of the hand wergild; the wergild for paralyzing each finger shall be two- third of the wergild of the same finger; the wergild for cutting off a paralyzed hand shall be one- third of the hand wergild; and, the wergild for cutting off a paralyzed finger shall be one- third of the same finger wergild.

Article 645

One- hundredth of the full wergild shall be the wergild for destroying nails in such manner that they would not re-grow or re-grow in infected and defective condition; and should they grow without defect, the wergild shall be point five one hundredth of the full wergild.

Article 646

The foregoing provisions in respect of the wergilds of hand and fingers shall equally apply to foot and toes.

The Eleventh Subject: The Vertebral Column; Spinal Cord; and Bottom

Article 647

The vertebral column fracture wergild shall be as follows:

- a. Fracture of vertebral column where it was not cured at all or became bent after recovery shall require payment of full wergild;
- b. Fracture of vertebral column, where it was cured without defect, but resulted in loss of a benefit, e.g. where the victim is no longer able to walk or sit, and/or has lost his or her sexual ability or urine control, shall require payment of full wergild;
- c. Fracture of vertebral column, where it was not cured and caused lesions such as those mentioned in Para. b, shall require payment of wergild or mulct of each of the resulted lesions in addition to full wergild of vertebral column fracture.
- d. Fracture of vertebral column that cures without defect shall require payment of one tenth of the full wergild.
- e. Fracture of vertebral column that causes paralysis and numbness of feet shall require payment of two- third of wergild for both feet paralysis in addition to the vertebral column wergild.

Note 1

Fracture of vertebral column means fracture of one or more vertebra (e) other than cervical vertebra and coccyx bone.

Note 2

A felony that causes one to become humpback, without fracturing vertebral column shall require payment of full wergild where the hump is not cured, and one-tenth of the full wergild, where cured.

Article 648

Complete and partial spinal cord severances shall require payment of wergild, depending on the area of the zone affected.

Article 649

Wherever spinal cord severance causes defect in another organ of the body, the wergild or mulct of the said organ will be added to the wergild of the spinal cord.

Article 650

Destruction of both buttocks in a manner that the injury reaches the bones shall require payment of full wergild. Destruction of each buttock shall require payment of a half of full wergild; and, destruction of part of each shall have pro rata wergild.

Article 651

Fracture of coccyx bone shall require payment of mulct, save where the said felony causes the victim to lose defecation self control in which case full wergild shall be payable; and, where the victim is able to control defecation but not farting, the mulct thereof shall also be paid.

Article 652

Full wergild shall be payable for an injury inflicted on the distance between testicles and anus that has caused loss of self control over urination and/or defecation.

**The Twelfth Subject:
Ribs and Clavicle Bone Wergilds****Article 653**

The wergild for fracture of each of ribs surrounding the heart and protecting it shall be one-fortieth of the full wergild; and the wergild for fracture of each of the other ribs shall be one-hundredth of the full wergild.

Note

Extirpation of ribs shall require payment of mulct.

Article 654

The wergild for a rib wound piercing the flesh and Periosteum and baring the bone shall be one fourth of the wergild for fracture thereof; the wergild for causing cracks in each of heart surrounding ribs shall be one eightieth of the full wergild; the wergild for displacement of ribs shall be seven point five thousandth; the wergild for cracking any of the other ribs shall be one thousandth of the full wergild; and, the wergild for their displacement shall be five thousandth of the full wergild.

Article 655

Chopping off and destroying two clavicle bones shall require payment of the full wergild; and those of either shall require payment of a half of the full wergild.

Article 656

Fracture of either clavicle bone, should it be cured without defect, shall require payment of four hundredth of the full wergild; and, should it not be cured or be recovered with defect shall require payment of a half of the full wergild.

Article 657

The wergild for producing crack in either clavicle bone shall be thirty-two thousandth; the wergild for making any clavicle bone wound piercing the flesh and Periosteum and baring the bone shall be twenty-fifth thousandth; the wergild for clavicle bone displacement shall be twenty-thousandth; and, the wergild for spiking it shall be ten thousandth of the full wergild.

**The Thirteenth Subject:
Defloration and Recto-vaginal Fistula**

Article 658

Wreath money shall be paid where defloration of a girl other than one's espouse was made by coitus or by any other means and without her consent.

Note 1

No amount shall be payable where defloration has occurred by coitus and with consent.

Note 2

The consent of an immature, insane or coerced girl, who had no genuine consent to fornication, shall be tantamount to lack of consent.

Article 659

Where defloration was accompanied by another felony, e.g. where it affects bladder in a manner that the person would not be able to control urine, the said felony shall have separate wergild or mulct as the case might be.

Article 660

Recto-vaginal fistula in one's wife shall engender civil liability as follows:

- a. Where the wife was mature, and recto-vaginal fistula occurred due to a cause other than coitus, full wergild of a woman shall be paid;
- b. Where the wife was immature, and recto-vaginal fistula was caused by sexual intercourse, the husband shall bear payment of, in addition to the whole of marriage settlement (portion) and full wergild of a woman, espousal support to the wife, so long as either one of the couple will stay alive, even where he has already divorced her.

Note

Recto-vaginal fistula means unification of the two urine and menstruation or urine and defecation canals.

The Fourteenth Subject: Wergild of Genital Organ and Testicles

Article 661

Chopping off genital organ of a man at foreskin or at a higher spot and destroying it shall require payment of full wergild; and, where a part less than foreskin is cut off, the part cut off in relation to foreskin shall be measured and pro rata wergild shall be paid.

Note 1

As to application of this provision, there shall be no difference between a minor, a young man, an old man, an infertile man, and a man with sound or defective testicles or lacking testicles.

Note 2

Where up to foreskin had been destroyed by a strike; and, then, the perpetrator or another person destroys the remaining or another part of genital organ, full wergild shall be payable for the part up to the foreskin, and mulct for the excess.

Note 3

Where a person chops off a part of the foreskin and the other another part of the foreskin, each shall be liable in respect of the part that they have incised. And, should a person cuts off a part of the foreskin, and the other incises the rest together with the whole or a part of the genital organ, wergild shall be paid in respect of the first felony for the area cut off from the foreskin, and mulct in respect of the second felony for the part cut off from the genital organ.

Article 662

A third of the full wergild shall be required to be paid for incising a paralyzed genital organ shall require payment of, and two- third of the full wergild for paralyzing a sound organ. However, the wergild

payable for incision of an impotent man's genital organ shall be one-third of the full wergild.

Note

Incision of part of the paralyzed organ in relation to the whole genital organ, being the incised part the foreskin or not, shall require payment of wergild.

Article 663

A half of a woman's wergild shall be required to be paid for incising and cutting off either side of a woman's genital organ, and pro rata wergild for destroying a part thereof. As to application of this provision there shall be no difference between a virgin and non-virgin, an immature and mature, and a healthy and unhealthy girl suffering from imperforate hymen condition or **dyspareunia**.

Article 664

Causing recto-vaginal fistula in a girl other than one's espouse shall engender liability as follows:

- a. Where the person who developed recto-vaginal fistula was immature or coerced, and recto-vaginal fistula was developed as a result of coitus, wreath money shall be paid in case of defloration, in addition to marriage settlement (portion) for a girl of such status and plus full wergild of a woman; and, where recto-vaginal fistula occurred due to a cause other than coitus, a woman full wergild shall be paid, plus marriage settlement (portion) for a girl of such status, in case of defloration;

- b. Where the recto-vaginal fistula was made with the consent of a mature woman and through coitus, only a woman full wergild shall be payable;
- c. Where recto-vaginal fistula was developed as a result of sexual intercourse under mistaken identity, wreath money shall be paid in case of defloration, in addition to marriage settlement (portion) for a girl of such status, and plus wergild.

Article 665

Cutting off two testicles at once shall require payment of full wergild. Two- third of wergild shall be payable for cutting off the left testicle, and a third of wergild for cutting off the right testicle.

Note

In applying the foregoing provision, there shall be no differentiation between a young and old, minor and major, impotent and healthy man, and the like.

Article 666

The wergild for inflation of one testicle shall be two-tenth of full wergild; and, where inflation prevents useful walking, the wergild thereof shall be eight- tenth of full wergild.

Article 667

Cutting off testicles or male genital organ of a male **pseudohermaphrodite** shall require payment of full wergild of a man. Cutting off testicles or male genital organ of a bisexual (complex hermaphrodite/ undetermined **intersex**) or a female **pseudohermaphrodite** shall require payment of mulct.

Article 668

Destruction of pubic bone of a man or a woman shall require payment of mulct.

The Fifteenth Subject: Breast Wergild**Article 669**

Incision and destruction of each of a woman's breasts shall require payment of a half of a woman full wergild; and destruction of part of it shall proportionately require payment of wergild. And, where together with the whole or part of the breast, part of the skin or the flesh surrounding it is also destroyed, or where it causes perpetration of another crime, the wergild or mulct of the said felony shall be paid, in addition to the breast wergild.

Article 670

Mulct shall be paid for cutting off lactiferous breast of a woman or destroying her milk production capability, or for hindering milk exit from a breast, or for creating any other defect.

**Chapter Four:
General Provisions on Wergild for Benefits****Article 671**

The evidence for establishing payment of the wergild for benefits shall be the same as that of body organs. In case of difference between the perpetrator and the victim regarding loss of or deficiency in benefit of a body organ, where loss of or deficiency in benefit is not be established by examination and testing, confession, evidence, personal knowledge of the judge or statement of a trusted expert and where

there is grounds for reasonable suspicion that it occurred, the victim may establish his or her entitlement to wergild by taking oath in the manner set forth in respect of body organs wergilds; and in case of difference regarding return of the lost or diminished benefit, entitlement to receive wergild shall be established by an oath to be taken by the victim, and there shall not be any need for compurgation to be made.

Article 672

In the instances where the expert's view was that the lost or diminished benefit would return within a specified period, but the victim passes away before expiry of the specified period, the entitlement to the wergild is established.

Article 673

In cases where a felony that has caused loss of one of the benefits spreads and causes the victim to pass away, the wergild for benefit will overlap with that for homicide; and, only payment of the wergild for homicide may be sought.

Article 674

Where the body organ in which the benefit is inherited is destroyed within the period set by a credible means for return of the lost or diminished benefit, e.g. where the eyeball the sight of which had been temporarily lost, fell out the eye socket (orbit), the perpetrator shall be only liable for temporary loss of the benefit thereof; and, where that body organ was lost due to a felony committed by another person, the second perpetrator shall be liable to pay the whole wergild of that body organ.

Chapter Five: Specified Wergilds of Benefits

The First Subject: Mind Wergild

Article 675

Payment of full wergild shall be required for causing someone to lose mind, and payment of mulct for making him or her suffer from mental deficiency, notwithstanding whether the felony had been committed as a result of inflicting a strike and wound or by frightening and the like.

Note

Mulct shall be paid, should the victim develop periodic insanity.

Article 676

Payment of mulct shall be required for loss of and deficiency in memory, also psychological disorder in case it does not amount to insanity.

Article 677

A felony that causes loss of mind or diminishes mental power, even if premeditated, shall require payment of wergild or mulct, as the case might require, and talion shall not be enforced against the perpetrator.

Article 678

Where mental power is lost or reduced as a result of an injury such as head or face fracture, each injury shall have a separate mulct.

Article 679

Where mind that had been lost as a result of a felony returned after having received full wergild, the wergild shall be reimbursed and mulct shall be paid.

Article 680

Where a victim becomes unconscious as a result of a felony and falls into coma, should this condition lead to his or her death, wergild for homicide shall be payable; and should he or she comes out of coma, mulct shall be payable for the period that he or she was unconscious. And, where other lesions and injuries emerge, wergild or mulct for those lesions shall also be paid.

Article 681

Felonies committed against a person in the state of coma, unconsciousness and the like shall be deemed to have been perpetrated against a conscious person in terms of the provisions pertaining to talion and wergild.

The Second Subject: Wergild for Audition

Article 682

Causing loss of hearing of both ears shall require payment of full wergild; and causing loss of hearing of one ear shall require payment of a half of wergild, even where auditory power of both ears is not the same.

Article 683

Causing loss of hearing in a person one of whose ears has no hearing ability shall require payment of a half of the full wergild.

Article 684

Reduction of hearing ability, the extent of which is diagnosable, shall require payment of wergild, proportionately.

Article 685

Where hearing is lost or reduced as a result of cutting off or destroying an ear or committing any other crime, each crime shall have separate wergild or mulct.

Article 686

Where as a result of a crime against auditory canal a permanent defect is developed that thoroughly prevents hearing, the hearing wergild shall be payable; and, where the defect is temporary, the amount of mulct shall be determined.

Article 687

Where an infant who has not yet started talking becomes unable to talk as a result of deafening and/or where an infant who has just started to talk becomes unable to learn and speak other words due to deafening, speech loss or speech deficiency wergild or mulct, as the case might be, shall be payable in addition to audition wergild.

Article 688

Where both hearing and talking abilities are lost, as the result of a felony, each shall require payment of full wergild.

The Third Subject: Vision Wergild**Article 689**

Blinding both eyes shall require payment of full wergild and that of one eye a half of full wergild.

Note

The preceding provision shall apply to sighted eyes, even though they might vary in terms of the degree of vision power and in other respects, such as **nyctalopia** and strabismus.

Article 690

Vision reduction shall require pro rata payment of wergild, should its degree be diagnosable, and mulct, if it is not diagnosable.

Article 691

Blinding the eye of a person who has only one sighted eye and whose other eye was congenitally blind and/or was lost due to non-felonious causes shall require payment of full wergild. Yet, where he or she has lost the other eye as a result of enforcement of talion or perpetration against him or her of a felony, which he or she was entitled to receive wergild for, the wergild of the sighted eye shall amount to a half of the full wergild.

Article 692

Blinding eyes or taking out the eye from the orbit shall require payment of only one wergild; and no other wergild shall be payable. Nonetheless, where vision is lost or reduced as a result of another injury such as head fracture, each shall require payment of separate wergild or mulct.

The Fourth Subject: Smelling Wergild

Article 693

Full wergild shall be payable for bringing about loss of smelling thoroughly, and mulct for causing partial loss thereof.

Note

Where smelling in either nose hole is thoroughly lost as a result of a felony, a half of full wergild shall be payable.

Article 694

Where as a result of cutting off or destroying the nose or committing another crime smelling is also lost or diminished, every felony shall have separate wergild or mulct.

The Fifth Subject: Tasting Wergild

Article 695

Bringing about loss or reduction of tasting sense shall require payment of mulct.

Article 696

Where tasting sense is lost due to severance of the whole tongue, only the wergild for cutting off the tongue shall be paid; and, where tasting is lost or reduced as a result of chopping off part of the tongue, should the lost tasting sense relate to that same part of the tongue, each of the tasting mulct and tongue wergild the amount of which is higher shall be paid; and, where the lost tasting does not pertain to that same part of the tongue, the tasting mulct and the tongue wergild shall be separately paid, save where the amount thereof would be higher than the full wergild, in which case only up to the amount of full wergild shall be paid; and, where tasting is lost or diminished due to a felony against other than tongue, the wergild or mulct of that felony shall be added to the tasting mulct.

The Sixth Subject: Voice and Talking Wergilds

Article 697

Full wergild shall be paid for causing loss of voice thoroughly in a manner that the person will not be able to make his or her voice heard, even where he or she is able to communicate by talking quietly and slowly.

Article 698

Depriving one of his or her power of speech thoroughly and without cutting off the tongue shall require payment of full wergild; and, depriving one of the powers to pronounce certain letters shall require payment of wergild proportionately to those letters.

Note

A person who suffers from **ankyloglossia** (tongue tie) and/or who speaks slowly or quickly or cannot pronounce certain letters shall be considered to be a person with talking ability. The wergild for destroying every letter pronunciation shall be determined in view of the number of letters of the language by which the victim speaks. For example, the wergild for destroying ability of a Persian language speaker is one thirty-second of the full wergild.

Article 699

Every felony that causes emergence of a defect in speech or in pronunciation of letters or aggravates the existing defect in speech shall require payment of mulct.

Article 700

A felony that causes a victim to pronounce a letter in place of another letter, e.g. pronounce letter of “L” in place of letter of “R” shall require payment of mulct, if it is commonly deemed to be a defect.

Article 701

Any felony that produces a defect in voice, for example, where it reduces tintinnabulation or causes hoarseness and/or nasal accent speaking shall require payment of mulct.

Article 702

Loss of speech sounds of certain letters shall require payment of mulct.

Article 703

Where a felony deprives the victim of his or her talking ability in addition to voice, two wergilds shall be payable.

**The Seventh Subject:
Wergild for Other Benefits****Article 704**

A felony that causes permanent **incontinentia urinae** and urinary incontinence shall be sentenced by full wergild; and, a felony that engenders urge/ stress incontinence shall require payment of mulct.

Article 705

A felony that causes permanent feces or ordinary incontinence shall be sentenced by full wergild.

Article 706

Depriving a man of the ability of ejaculation or reproduction and a woman of pregnancy and/or depriving a woman or a man of the possibility of enjoying sexual intercourse shall require payment of mulct.

Article 707

Depriving one thoroughly of the ability to have sexual intercourse shall require payment of full wergild.

Article 708

Depriving a person permanently of, or permanently or temporarily paralyzing other senses or benefits such as tactile sense, sleeping and monthly menstruation, as well as making a person suffer from shiver, thirst, hunger, fear and faint shall require payment of mulct.

Chapter Six: Wounds Wergilds

Article 709

Head and face wounds and the wergilds thereof are as follows:

- a. Skin scratch, that is a skin catching without bleeding: one-hundredth of full wergild;
- b. Bleeding fracture, that is a wound that has entered to a limited extent into flesh, and is accompanied by a low or a high current of bleeding: two -hundredth of full wergild;
- c. Rupture in flesh, that is a wound that causes deep cut into the flesh, but does not reach Periosteum: three -hundredth of full wergild;
- d. Periosteum Wound, that is a wound that reaches Periosteum: Four -hundredth of full wergild;
- e. Bone baring Wound, that is a wound that pierces the flesh and Periosteum and bares the bone: Five -hundredth of full wergild;
- f. Bone fracture, that is a wound that breaks bones, though producing no wound: Ten-hundredth of full wergild;

- g. Bone displacement, that is a wound that cannot be treated save by bone shifting: Fifteen-hundredth of full wergild;
- h. Meninges wound, that is a wound that injures brain meninges: One-third of the full wergild;
- i. Brain wound, which is a wound that pierces brain meninges and affects brain, the meninges wound wergild plus mulct for piercing the meninges.

Note 1

Ears, nose, lips, tongue, and mouth inside wounds, in the instances other than those for which a specific wergild is set, shall be tantamount to head and face wounds.

Note 2

The yardstick for determining the amount of wergild in each of the said wounds is the degree of penetration of the wound; and the length and the width of the wound has no bearing on the amount of the wergild.

Note 3

Felonies against cheeks, where it does not cause revelation of the mouth interior shall require payment of one-twentieth of the full wergild; and should it be revealing the mouth interior, the wergild shall be one-fifth of the full wergild. In this case, if after the wound is cured, a grave effect and defect remains on the face, an additional one-twentieth of the full wergild shall also be paid.

Note 4

Where as regards bone-baring wound on face, a trace remains of the wound on the face after healing, one-eightieth of the full wergild shall

be payable in addition to the wergild for bone bearing wound. And, where the felony was not as grave as a bone baring wound, but has left a trace after healing, one-hundredth of the full wergild shall be paid in addition to the wergild of the said felony. And, where a felony produces a gaping on face, its wergild shall be eight-hundredth of full wergild.

Article 710

Where one of the wounds mentioned in Clauses a. to c. of Article 709 of the present law is inflicted on any part of the body other than head and face, and that body organ has a specified wergild, the wergild shall be determined, proportionately to the wergild of that body organ; and mulct shall be payable where that body organ has no specified wergild.

Note 1

Wounds inflicted on neck are tantamount to wounds on the body.

Note 2

Where one of the wounds mentioned in Article 709 inflicted by one strike produces sores with variable depths, it shall be deemed one single wound, and its wergild shall be that of the graver wound. However, where that wound was inflicted by several strikes, as for example, where one strike causes a scratch and the other strike turns the wound to a wound that has pierced the flesh and Periosteum and bared the bone, then separate wergilds shall be payable for each wound, the perpetrator of both felonies being one person or two notwithstanding.

Article 711

Grave wound is a wound inflicted by forcing any type of instrument, and from any direction, into the human body, including into abdomen, chest, back and sides, and is punishable by one third of full wergild. Where the said instrument enters on one side of the body and exits from the other side, it shall be considered to be two grave wounds.

Note

Where in grave wound, inner members of the body are injured or destroyed; the wergild thereof will also be calculated in addition to the wergild for grave wound.

Article 712

Where a spear or a bullet and the like enters into the body such as in the pharynx, throat or chest, in addition to making bone baring wound, bone fracture wound, or bone displacement wound, it shall be deemed to be two wounds, and for it, the wergild for a grave wound shall be payable in addition to the wergild for bone baring wound or bone fracture wound and bone displacement wound.

Article 713

Penetrating trauma is a wound that is produced by penetration of instruments such as spear or bullet into hand or leg; and its wergild shall be one-tenth of the full wergild, for a man, and mulct, for a woman.

Note 1

The provision of this Article applies to the body organs the wergild for which is more than one tenth of the full wergild. Mulct shall be payable in respect of any body organ that its wergild is equal to or less

than one-tenth of the full wergild, e.g. where a bullet penetrates into a finger or toe phalanx.

Note 2

If the object that causes penetrating trauma exits from the other side of the body, the act shall be considered to have been two penetrating traumas.

Article 714

The wergilds for injuries that cause change in skin color shall be as follows:

- a. Blackening the face: Six-thousandth of full wergild; bruising: Three-thousandth of full wergild; reddening: One point five-thousandth of full wergild;
- b. Change of color in the skin of other parts of the body, as the case might be, shall be a half of the amounts mentioned at Para. a.

Note 1

The foregoing provision shall apply invariably to both a body organ with a specified wergild and to that for which no specified wergild is set. There shall also be no difference between where the whole or part of a body organ has been affected, and whether the change of color persists or fades away.

Note 2

Mulct shall be payable in respect of change of head color.

Article 715

Mulct shall be payable in respect of injuries that cause inflammation in body, head or face. And, where it causes change of color in skin, the wergild and change of color mulct shall be added thereto, respectively.

Chapter Seven: Embryo Wergild

Article 716

The embryo wergild shall be as follows:

- a. Embryo implanted in the womb: Two-hundredth of the full wergild;
- b. Embryo with the shape of a clot blood leech: Four-hundredth of full wergild;
- c. Embryo with the shape of a flesh mass: Six-hundredth of the full wergild;
- d. Embryo with the shape of a bone without flesh having been grown on it: Eight-hundredth of the full wergild;
- e. Embryo with flesh and skeleton but without soul having entered: One-tenth of the full wergild;
- f. Fetus with soul having entered into it: Full wergild, if a boy; a half thereof, if a girl; and where the fetus's sex is unclear: Three-fourth of the full wergild

Article 717

Where as a result of a felony inflicted on the mother, the embryo/fetus is aborted, the wergild or mulct for the felony against the mother shall be paid in addition to the embryo's wergild at any stage of development that might be.

Article 718

Where a woman aborts her embryo/fetus at any stage that might be, premeditatedly, by quasi **delict**, or by culpa fault (**levissima** culpa), the wergild of the fetus/ embryo shall be paid by the perpetrator or by the parental or paternal kinsmen, as the case might require.

Note

No wergild shall be payable for abortion of an embryo/ a fetus, whose survival involves a risk to the mother's life, in order to preserve the mother's life.

Article 719

Where two or more embryos/fetuses are in the uterus, abortion of each shall have separate wergild.

Article 720

The wergilds of the body organs and other injuries inflicted on embryo/fetus at the stage where its skeleton is complete, but the soul has not yet entered into it, shall be calculated proportionately to the wergild of the embryo/fetus at that stage; and after the soul has entered, the wergild shall be calculated according to the embryo's/fetus's sex. And, in case by the same felony, the embryo/fetus has been aborted, only the wergild of the embryo/fetus shall be paid.

Article 721

Where due to a felony committed and/or the injury inflicted, something is aborted that, according to trusted experts, the human nature thereof is not established, no wergild or mulct shall be payable. However, where an injury is inflicted upon the mother as a result thereof, wergild or mulct shall be payable.

Chapter Eight: Wergild of Felony against Human Corpse

Article 722

The wergild of a felony against a human corpse shall be one-tenth of the full wergild of living human. For example, the wergild of cutting off the head from a dead person's corpse shall be one-tenth of the full wergild; the wergild of cutting off one hand shall be one-twentieth of the full wergild; the wergild of cutting off two hands shall be one-tenth of the full wergild; and, the wergild of cutting off one finger/toe shall be one-hundredth of the full wergild. The wergilds of wounds inflicted on head, face and other body organs and members of a corpse shall be calculated in the same manner.

Note

The wergild of a felony against a corpse is not inheritable, but shall belong to the deceased; and its amount will be spent on satisfying his or her liabilities where his or her estate is insufficient. Otherwise, the wergild shall be spent on charitable matters.

Article 723

In cases where no specified wergild is provided for the injury inflicted upon the corpse, one tenth of the mulct of that felony, were it committed against a living person, shall be calculated and paid.

Article 724

No wergild is payable for cutting off members of the body of a corpse for the purpose of grafting to another person, where it is done pursuant to the deceased person's testament.

Article 725

The wergild for a felony against a deceased corpse shall become due and payable immediately, save where the perpetrator is unable to pay it at once, in which case he or she will be given an appropriate respite.

Article 726

The wergild of a felony against a deceased person's corpse shall be paid by the perpetrator himself, notwithstanding whether the act was a premeditated felony or was culpa fault (*levissima culpa*).

Article 727

A person who commits a felony against, or insults a deceased person's corpse shall be sentenced to thirty-one to seventy-four lashes of the sixth degree discretionary punishment in addition to payment of wergild or mulct.

Article 728

Effective the date the present law comes into force, the General Penal Code, Act of January 27, 1926; the General Penal Code, Act of May 27, 1973; the Islamic Penal Code, Act of August 09, 1983; the Islamic Penal Code, Act of July 30, 1991; the Islamic Penal Code, Book Five: Discretionary Punishments and Deterrent Punishments, Act of May 22, 1996, Articles 625, 626, 627, 628, 629, 726, 727, and 728; the Security Measures Act of May 01, 1960; and the Act on Definition of Effective Convictions in Penal Laws of October 18, 1987, and their subsequent amendments and addendums, if not already abrogated by previous laws and by other laws in conflict with the present Code, shall be repealed.

The foregoing law comprising seven hundred and twenty-eight Articles was passed in the session dated April 21, 2013 of the Islamic

Parliament Judicial and Juridical Commission in accordance with Principal 85 of the Constitution, and, the Parliament having agreed to put it tentatively into force for the period of five years, was ratified by the Council of Guardians on May 01, 2013.

Ali Larijani

The Parliament Speaker

قانون مجازات اسلامی که در بردارنده قواعد کلی حقوق جزا و بخشی از حقوق جزای اختصاصی (حدود، قصاص و دیات) است با بهره‌گیری از تجارب و رویه قضایی، مطالعات و نظرات فقهی و حقوقی در ۷۲۸ ماده در تاریخ ۱۳۹۲/۰۲/۰۱ به تصویب مجلس شورای اسلامی رسیده است.

این قانون مشتمل بر دستاوردها و نوآوری‌هایی از قبیل پذیرش مسئولیت تدریجی اطفال و نوجوانان و پیش‌بینی پاسخ‌های اصلاحی، تربیتی، ترمیمی و جزای مناسب برای آنان، مسئولیت کیفری اشخاص حقوقی، اصل صلاحیت مبتنی بر تابعیت بزه‌دیده، نظام‌مند شدن مجازات‌های تکمیلی، توجه قضات به پرونده شخصیت در صدور حکم، و بهره‌گیری از راهبردهای عقب‌نشینی کیفری، جایگزین‌های مجازات و کاهش مجازات‌ها و سزا-گرایی و غیره می‌باشد.

ترجمه این قانون با پیشنهاد دبیر محترم ستاد حقوق بشر قوه قضائیه جهت استفاده بیگانگان غیر فارسی زبان و مجامع بین‌المللی در معاونت حقوقی قوه قضائیه به همت مترجم رسمی زبان انگلیسی قوه قضائیه، جناب آقای دکتر محسن میرمحمد صادقی، و تحت نظارت جناب آقای دکتر سیدعلی کاظمی انجام گردید. لذا از زحمات این عزیزان و همچنین جناب آقای وحید هدایتی که زحمت بازنویسی آن را کشیدند تشکر و قدردانی می‌شود.

دکتر فریج ا... خدایان

معاون حقوقی قوه قضائیه

قانون مجازات اسلامی مصوب

۱۳۹۲/۰۲/۰۱

ترجمه به زبان انگلیسی

به اهتمام: معاونت حقوقی قوه قضائیه

نگارش: دکتر محسن میر محمدصادقی

مترجم رسمی قوه قضائیه

پاییز ۱۳۹۵