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**PENAL CODE**

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**Decree No. 910**  
**Dated 31 Sunbula 1355**  
**(21 September 1976)**  
**of the Prime Ministry:**

Dear Dr. Abdul Majid, Minister of Justice:

The High Council of Ministers, under its Decision No. 1614 in the meeting of 30/06/1355 (21 September 1976), in consideration of Petition No. 3132 dated 30/10/1354 (20 January 1976) of the Ministry of Justice regarding the Penal Code, sanctioned the following:

“The Penal Code, in 2 books, consisting of 8 sections and 523 articles, which has been affixed with the seal of the Secretariat, is approved.”

The decision of the Council of Ministers, which has received the approval of the Head of State of the Republic of Afghanistan, and has been registered under No. 1980 dated 31 Sunbula 1355 (22 September 1976), is therefore communicated to you so that action may be taken with respect to its publication in the Official Gazette.

**Dr. Mohammad Hassan Sharq**



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## **SECTION 1 – PRELIMINARY PROVISIONS**

### **[Summary of Section 1]**

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### **Chapter 1 – General Principles and Definitions**

#### **Article 1 [Scope of Application]**

The law regulates the “*Ta zeeri*” crime and penalties. Those committing crimes of “*Hodod*”, “*Qessass*” and “*Diat*” shall be punished in accordance with the provisions of Islamic religious law (the Hanafi religious jurisprudence).

#### **Article 2 [Crime Only According to Law]**

No act shall be considered crime, but in accordance with the law.

#### **Article 3 [Punishment Under Law Enforced Before Commission of Act]**

No one can be punished but in accordance with the provisions of the law which has been enforced before commitment of the act under reference.

#### **Article 4 [Presumption of Innocence and Prohibition on Punishments against Human Dignity]**

1– Innocence (acquittal) is the original state. The accused shall be considered innocent as long as he is not convicted by a final verdict of a competent court.

2– Any punishment which is discordant to human dignity is not permitted.

#### **Article 5 [Ignorance of Law Not an Excuse]**

Ignorance of provision of the law shall not be deemed as an excuse.

## **Article 6 [Return of Goods Acquired Through Crime and Compensation for Losses Resulting from Crime]**

1– If a person, who is punished in accordance with the provisions of this Law, has acquired a good through crime he shall be adjudged to return the good, and if the good should not be available, to return the same or its price to its owner.

2– A person who inflicts a loss as a result of committing a crime shall be adjudged to compensation of the inflicted loss, too.

## **Article 7 [Extradition and Claimant of the “Right of Man”]**

Provisions of this Law do not interfere with the right of extradition or demanding the replacement of the claimant of the “Right of Man”.

## **Article 8 [Diplomats Subject to International Law]**

Diplomatic representatives who commit a crime in Afghanistan Shall be treated in accordance with the regulations of the international law.

## **Article 9 [Calendar for Calculation of Deadlines]**

Deadlines contained in this Law are valid on the basis of solar Hijri calendar.

## **Article 10 [Final Verdict Defined]**

Final verdict for the purposes of this Law is the verdict which has been finalized, or that there should be no question of appeal or cassation, or that the deadlines for appeal and cassation have lawfully lapsed.

## **Article 11 [Application to Persons Who Are Not Subjects of Afghanistan]**

Persons who are not subjects of Afghanistan but are residing or staying in Afghanistan shall be considered as subjects of Afghanistan for the purposes of this Law, unless otherwise specified in the law.

## **Article 12 [Officials of Public Services Defined]**

For the purposes of this Law, the following persons are considered officials of public services:

- 1– Permanent and contract employees of the State and State enterprises.
- 2– Permanent and contract employees of public institutions;
- 3– Members of the organs of State and provincial and local assemblies;
- 4– Attorneys-at-law, arbiters, experts, witnesses and other persons whose certifications are honored.

## **Article 13 [Public Defined]**

For the purposes of this Law, the following instruments are considered “public”:

1– Speech is considered “public” when it is made in public gathering, public way or other places in such a loud voice, or broadcast by other means in such a way, that if anyone were present in there he could have heard it.

2– Act is considered “public” when it takes place in public gathering, public way or other places in such a way that if anyone were present there he could have seen it.

3– Painting, picture, film, writing, cipher, and other instruments of exhibition are considered “public” when it is distributed to more than one person, or is put on display in such a way that if anyone were present there he could have seen it, or is sold or presented for sale.

## **Chapter 2 – Applicability of the Law**

### **PART 1 – APPLICABILITY OF THE LAW FROM THE POINT OF VIEW OF PLACE AND PERSONS**

#### **Article 14 [Territorial Jurisdiction]**

1– Provisions of this Law shall be applied to persons who commit crime within the area of the Republican Government of Afghanistan. The area of the Republican Government of Afghanistan encompasses any place under its jurisdiction.

2– Afghan ai-planes and ships, whether inside or outside Afghanistan, are considered from the area of Afghanistan, unless they are, according to general principles of international law, subject (to authority) of a foreign State.

#### **Article 15 [Extraterritorial Jurisdiction Generally]**

Provisions of this Law are also applicable to the following persons:

1– Any person who commits an act outside Afghanistan as a result of which he is considered the performer of or accomplice in a crime which has taken place in whole or in part in Afghanistan.

2– Any person who commits one of the following crimes outside of Afghanistan:

1– Crime against internal or external security of the State of Afghanistan.

2– Crime of forgery as contained in articles 302 and 303 of this Law.

3– Crime of counterfeiting as contained in article 310 of this Law or import of forged or counterfeited articles to Afghanistan.

#### **Article 16 [Extraterritorial Jurisdiction Over Crimes Relating to Public Services]**

1– Provision of this Law are also applicable to crimes committed outside Afghanistan by Afghan officials and employees or foreign nationals assigned to public services by Afghanistan and who commit the crime during the performance of their assigned duties or for reasons thereof.

2– Provisions of this Law are also applicable to crimes committed against persons noted in the above paragraph during the performance of their assigned duties or for reasons thereof.

#### **Article 17 [Extraterritorial Jurisdiction Over Crimes Against Afghans or Afghanistan’s Interests]**

1– Provisions of this Law are applicable to any persons who commit a crime against an Afghan or Afghanistan’s interests outside of Afghanistan.

2– Penal claims against those committing these crimes shall be made in accordance with the provisions of the Criminal Procedure Code.

**Article 18 [Punishment of Afghans Committing Crimes Abroad]**

Any Afghan who discharges of an act outside Afghanistan which is considered crime according to the provisions of this Law shall be punished in accordance with the provisions of this Law in case of returning to Afghanistan, provided that the said act is punishable under the laws of the country in which it was committed.

**Article 19 [Limitation on Punitive Claims for Crimes Already Adjudicated Abroad]**

With the exception of cases included in articles (6 and 7) of this Law, punitive claims cannot be launched against a person who proves that foreign courts have acquitted him in respect of the crime under reference or that he has been convicted and the final pronouncement has been implemented upon him, or that the punitive claim has been dropped in accordance with the law before the pronouncement of the final judgment or punishment of the convict.

**Article 20 [Calculation of Period of Detention Abroad for Purposes of Punishment for Same Crime in Afghanistan]**

The period of arrest and imprisonment that the accused or convict has spent outside Afghanistan as a result of application of punitive verdicts shall be deducted from the duration of the punishment to which the person will be sentenced for commitment of the same crime in Afghanistan or from the punishment that is being implemented upon him.

**PART 2 – APPLICATION OF THE LAW FROM THE POINT OF VIEW OF TIME**

**Article 21 [Effect of Subsequent, More Lenient Law on Punishment]**

1– A person committing a crime is punished in accordance with a law that is in force at the time of commitment of the act, except when before pronouncement of the final verdict a new law which is in favor of the accused comes into force.

2– If a law comes into force after the pronouncement of the final verdict which does not consider the act for which the person committing it has been sentenced to a punishment, execution of the sentence shall be suspended and the penal effects based on it shall be removed.

**Article 22 [Effect of Expiration of Temporary Law Prescribing Penalty]**

If a person is sentenced to punishment for an act under a temporary law whose enforcement expires on a certain date, the expiration of the enforcement of the temporary law does not hinder proceeding of the trial and implementation of the punishment.

## SECTION 2 – CRIMES

### [Summary of Section 2]

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### **Chapter 1 – Crimes from the Point of View of Seriousness**

#### **Article 23 [Classification of Crimes]**

Crimes are classified as felony, misdemeanor, and petty offense from the point of view of seriousness.

#### **Article 24 [Felony Defined]**

Felony is a crime whose doer is sentenced to death or continued imprisonment or long imprisonment.

#### **Article 25 [Misdemeanor Defined]**

Misdemeanor is a crime whose doer is sentenced to imprisonment of more than 3 months up to 5 years, or cash fine of more than 3,000 Afghanis.

#### **Article 26 [Petty Offense Defined]**

Petty offense is a crime whose doer is sentenced to imprisonment of 24 hours to 3 months, or cash fine of up to 3,000 Afghanis.

### **Chapter 2 – Elements of Crimes**

#### **PART 1 – MATERIAL ELEMENT**

##### **1ST [TOPIC] – ACT, CAUSE, AND EFFECT**

#### **Article 27 [Act or Omission Causing Criminal Effect]**

An act or omission of an act contrary to the law, such that the act should result in a criminal effect and a causal relationship be established between the act and the effect, is the material element of crime.

## **Article 28 [Relation of Cause and Effect to Criminal Responsibility]**

1– A person shall not be held responsible for a crime which is not the result of his criminal act .

2– A person whose criminal act partakes in resulting the effect with a previous cause or (one) concurrent with the act or after it shall be considered responsible, even if the person should not be cognizant of the effectiveness of his criminal act in resulting the effect.

3– If the cause alone should be considered sufficient for producing the effect of crime, in this case the doer alone shall be considered responsible for his criminal act.

### **2ND [TOPIC] – INITIATION**

## **Article 29 [Initiation (Attempt) Defined]**

1– Initiation of a crime is the starting of an act with the intention of committing a felony or misdemeanor, but whose effects have been stopped or offset by reasons beyond the will of the doer.

2– Only the decision to commit a crime or performance of preliminary works is not considered initiation of crime.

3– Any action with the intention of committing a crime or misdemeanor, whose fulfillment is impossible due to factors related to the object of crime or the instruments used, is considered initiation of crime provided that the belief of the doer of the act with respect to producing the criminal effect is not arising from mistake or absolute ignorance.

## **Article 30 [Felony Initiation (Attempt)]**

Initiator of felony shall be sentenced to the following punishments, unless otherwise stipulated in the law:

1– In cases where the punishment for the crime itself is death, continued imprisonment;

2– In cases where the punishment for the crime itself is continued imprisonment, long imprisonment;

3– In cases where the punishment for the crime itself is long imprisonment, medium imprisonment; **or one half of the maximum punishment of the crime itself.**

## **Article 31 [Misdemeanor Initiation (Attempt)]**

Punishment for initiating misdemeanor shall not exceed one half of the maximum punishment prescribed for the crime itself in the law, unless the law has stipulated otherwise.

## **Article 32 [Petty Offense Initiation (Attempt)]**

Initiation of petty offense does not require punishment, unless the law has clearly stipulated it.

## **Article 33 [Special Orders related to Crime Initiation (Attempt)]**

In the initiation of crime, special orders concerning follow-up or supplementary punishment and security measures regarding the full crime, shall be observed.

## **PART 2 – MORAL (CONTEMPLATIVE) ELEMENT, CRIMINAL INTENTION, AND MISTAKE**

### **1ST [TOPIC] – CRIMINAL INTENTION**

#### **Article 34 [Criminal Intention Described]**

1– Criminal intention refers to impelling the will of the doer to commit an act which produced the crime, such that it should result in the effect of the intended crime or the effect of another crime.

2– Intention is sometimes simple and sometimes it is coupled with prior insistence.

3– Prior insistence refers to taking a firm decision before performing the crime in mind provided that it is not the result of sudden rage and sensual excitement.

4– Insistence is considered a prior matter, regardless of whether the intention of the doer is directed to a specific person or an unspecified person, be it dependant on any condition or related to some other matter or not.

#### **Article 35 [Conditions for Intentional Crime]**

1– Crime is considered intentional when the criminal intention is realized by its doer.

2– Crime is also considered intentional in the following instances:

(1) When a person is obliged by law or agreement to carry out a duty and he deliberately refuses to do it, such that his refusal directly results in the incidence of the crime.

(2) When a person has already anticipated the criminal effects of his action and still he undertakes to perform the said action only to effect a crime.

### **2ND [TOPIC] – MISTAKE**

#### **Article 36 [Unintentional Crime Due to Mistake]**

Crime is considered unintentional when the effect of crime is brought about by its doer by mistake, regardless of whether the mistake is due to neglect, credulity, carelessness, or due to non-observation of laws, regulations and orders.

## **PART 3 – LEGAL ELEMENT**

#### **Article 37 [Criminal Acts as Elements of Crime]**

1– The legal element of crime is the description of criminal acts and their punishments in the law.

2– The rule pertaining to legality of crime and punishment is explained in the provisions of articles 2 and 3 of this Law.



## Chapter 3 – Association in Crime

### PART 1 – PRINCIPAL OFFENDER AND ACCOMPLICE

#### Article 38

A person is regarded the principal offender in the following instances:

- 1– When he alone or with the association of someone else commits a crime;
- 2– When he intervenes in the commission of a criminal act in such a way as to intentionally commit one of the acts comprising the crime.

#### Article 39

A person is regarded an accomplice in the following instances:

- 1– When he instigates a person to commit one of the acts comprising the crime and the crime takes place as a result of this instigation.
- 2– When he enters in to an agreement with another person to commit a crime and the crime takes place as a result of this agreement.
- 3– When he knowingly assists the principal offender in any way with respect to equipment, facilities or supplementary works for committing the crime and the crime takes place as a result of this assistance.

#### Article 40

The principal offender shall be sentenced to the fixed punishment of the crime committed.

#### Article 41

- 1– The accomplice shall be sentenced to the punishment of the crime in which he has taken part, unless the law has stipulated otherwise.
- 2– In cases where the principal offender is not punished for any legal reason, this exemption does not obstruct the punishment of the accomplice.

#### Article 42

If the crime that has actually taken place is other than the crime intended by the principal offenders and accomplices, they shall be sentenced to the punishment for the crime which has actually taken place, provided that the said crime has been predictable and it has been the result of their intervention.

#### Article 43

If during the commitment of criminal action such material circumstances appear that result in a change in the description of crime or punishment, its effects shall be applied to all principal offenders and accomplices, provided that the said instances should be the result of the intervention of all of them.

#### Article 44

- 1– If special circumstances should come into presence With respect to one of the principal offenders such as to result in a change in the description of the crime in his case, its results shall not affect the other principal offenders.

2- The affects of these special circumstances affect The accomplice when he is cognizant of it.

#### **Article 45**

If special circumstances should come into presence to Cause a change in the punishment of one of the principal offenders, its effects shall not affect other principal offenders and accomplices.

#### **Article 46**

If a change is brought in the description of crime in view Of the intention or awareness the principal offender, other offenders and accomplice shall be punished in accordance with their intention and awareness.

#### **Article 47**

In cases where the law considers plurality of offenders A condition of severity of crime, the existence of an accomplice at the time of commitment of crime shall be considered plurality.

#### **Article 48**

1- If several offenders and accomplices should be Sentenced to a single verdict of cash penalty for committing single crime, this verdict shall be applied to each of them individually.

2- In cases where the sentence to cash equivalent of the good which has been obtained through crime or was expected to be obtained is in question, the sentence shall be applied jointly to all the convicts who have been sentenced to a single sentence of the mentioned cash penalty, unless the law has stipulated otherwise.

### **PART 2 – ALLIANCE IN CRIME**

#### **Article 49**

Alliance in crime is the joining of two or more persons In committing a specific or an unspecific felony or misdemeanor, or joining in equipment, facilities or Supplementary works of the said crimes, provided that the alliance is regular and continuous, even if it has taken Place at the formation stage of crime or for a short time.

#### **Article 50**

1- In case of alliance in felony, every individual shall be sentenced to a long imprisonment not exceeding 7 years, even if the felony for which the alliance was made has not been initiated.

2- In case of alliance in misdemeanor, every individual shall be sentenced to a prison term of not more than 2 years, or to cash fine of not more than 24,000 Afghanis.

#### **Article 51**

If the purpose of alliance is to commit a crime whose punishment is anticipated in the law less than the punishment of article 50 of this Law, in this case the accused persons shall be sentenced to one quarter of the maximum punishment fixed for the crime for which the alliance is made.

## **Article 52**

1– The punishment contained in article 50 and 51 of this Law shall not be applied to persons who inform the concerned authorities of association in crime, provided that the information is communicated before the felony or misdemeanor is committed and before the said authorities begin inspection and investigation.

2– The informer, after the start of inspection and investigation shall be exempted from punishment on the condition that his information should result in the arrest of those accused persons who are not known to the said authorities.

## **Chapter 4 – Instruments of Freedom**

### **PART 1 – EXERCISE OF RIGHT**

#### **Article 53**

Commitment of a criminal act with good will for the Purpose of exercising a right, which is granted to a person by the way of religious or other law, shall not be considered crime.

#### **Article 54**

Commitment of criminal act in the following instances is considered exercise of right:

1– In the punishment of son and student by father and teacher, provided the punishment is within the limits of religious and other laws.

2– In the performance of surgical operations or other medical treatments, provided that it is exercised in accordance with the technical principles of the medical profession at the consent of the patient or his guardian or legal representative. Performance of surgical operation in emergency cases is excepted from this provision.

3– In the performance of sportive games, provided it is exercised within the accepted rules and regulations of sport.

4– In the instance of commitment of apparent felony or misdemeanor for the purpose of arresting the persons committing the said crime, in such a way as is regulated in relevant laws.

### **PART 2 – DISCHARGE OF DUTY**

#### **Article 55**

Commitment of criminal act during the discharge of a duty, which is the obligation of the State official by the law, is not considered crime.

#### **Article 56**

Commitment of criminal act in the following instances is considered discharge of duty:

1– When committed by an assigned official in accordance with the provisions of the law and in good faith during the discharge of duty, or when he believes that its performance is from his legal authorities.

2– In carrying out the orders issued by a competent authority to which he is obliged by the provision of the law, or when he believes that execution of orders of competent authorities are from his legal obligations.

3– In both instances included in this article, the assigned official is obliged to prove that his belief regarding the legitimacy of the act had been based on rational reasons and that the act was committed only after necessary precautions had been taken; but, if the official, by the way of provision of law, did not have the right to object to the orders of the competent authority, he shall under no circumstances be punished for committing a criminal act as included in paragraphs 1 and 2 of this article.

### **PART 3 – LEGITIMATE RIGHT OF DEFENSE**

#### **Article 57**

Commitment of criminal act for the purpose of exercising the legitimate right of defense shall not be considered crime.

#### **Article 58**

Legitimate right of defense permits the threatened person to make use of any necessary means for the purpose of defending against any criminal act that poses a material loss or danger of life to the defender or someone else.

#### **Article 59**

1– Legitimate right of defense comes into presence when the defender is assured by rational instruments and logical reasons that a danger of transgressions is directed to good, life or honor of the defender someone else.

2– Legitimate right of defense extends to the end of danger and ends when it has disappeared.

#### **Article 60**

Legitimate right of defense comes into presence under the following conditions:

- 1– Defense should be against aggression and assaults;
- 2– Defense should be proportionate to the danger of threat;
- 3– Defense should be the only way of removing the danger;
- 4– Defense should be concurrent with the attack of the opposite side;
- 5– Defense should be against an illegal and unjust act;
- 6– The defender should not have deliberately caused the criminal action of the opposite side.

#### **Article 61**

International murder on the basis of exercising the legitimate right of defense is not permitted, unless it takes place for defense against one of the following acts:

- 1– Defense against an act which poses the fear of death or serious injury, provided the said fear is created by reasonable instruments.
- 2– Defense against the act of adultery, homosexuality or threat to either.
- 3– Defense against human kidnapping.

- 4– Defense against intentional arson.
- 5– Defense against that act of larceny which is considered felony by law.
- 6– Defense against unauthorized entry at night into residential house and/or its annexes.

**Article 62**

Legitimate right of defense does not come into existence if it is possible to resort to officials of public services to ward off the danger.

**Article 63**

Legitimate defense is not permitted against officials of public authority who carry out their duties with good intention, even if in the course of duty they go beyond the limits of their legal authority, except in cases where there is a positive fear of death or serious injuries as a result of their action, based on sound reasons.

**Article 64**

The court can, in the case of a person who has gone beyond the limits of legitimate right of defense in good faith, reduce his punishment to misdemeanor if it is felony and to petty offense if it is misdemeanor.

## SECTION 3 – PERPETRATOR

[Summary of Section 3]

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### Chapter 1 – Penal Responsibility and Its Obstacles

#### PART 1 – PENAL RESPONSIBILITY

**Article 65 [Conditions for Penal Responsibility]**

Penal responsibility comes into existence when a person commits a criminal act by free will and in a state of healthy mind and senses.

#### PART 2 – OBSTACLES TO PENAL RESPONSIBILITY

**Article 66 [Conditions Preventing Penal Responsibility]**

Obstacles to penal responsibility come into existence from the realization of any sensual indisposition or one of the instances of lack of will.

1ST [TOPIC] – SENSUAL INDISPOSITION

[SUBTOPIC] 1– INSANITY AND MENTAL DISEASE

**Article 67 [Effect of Insanity and Other Mental Diseases on Criminal Responsibility]**

1– A person who, while committing a crime lacks his senses and intelligence due to insanity or other mental diseases has no penal responsibility and shall not be punished.

2– If a person while committing a felony or misdemeanor suffers from a defect in his senses and intelligence, the court shall consider him excused and observe in his case the provisions of this Law with respect to extenuating conditions.

3– A petty offense committed by persons mentioned in paragraph 2 of this article shall not be considered crime.

[SUBTOPIC] 2– DRUNKENNESS

**Article 68 [Effect of Unintentional Intoxication on Criminal Responsibility]**

1– A person who while committing a crime loses his senses and intelligence due to use of intoxication or narcotic substances, and if this use is made by force or lack of knowledge, shall not be punished.

2– If the person mentioned in the above paragraph has not completely lost his senses and intelligence, he shall be punished in accordance with the provision of paragraph 2 of article 67 of this Law.

**Article 69 [Effect of Deliberate Intoxication on Criminal Responsibility]**

1– If a person uses intoxicating or narcotic substances at his own will and commits a crime, he shall be considered responsible and it will be assumed that he has committed he crime in a state of full senses and intelligence.

2– If a person deliberately uses intoxicating and narcotic substances for the purpose of committing a crime, the court shall apply to his case the provision of this Law regarding the aggravating conditions.

[SUBTOPIC] 3– AGE

**Article 70 [Minor Defined]**

Minor refers to a child between the ages of 7 and 13 years.

**Article 71 [Teenager Defined]**

Teenager refers to a person who has completed (reached) 13 years of age and has not completed (reached) 18 years of age.

**Article 72 [Age Limitation for Prosecution of Children]**

Penal claim cannot be filed against a child who has not completed 7 years of age.

### **Article 73 [Determination of Age]**

Determination of age takes place on the basis of citizenship document (*tazkera*). The court can, in case of non-conformity of the appearance of minor with the age shown on the citizenship document, obtain the opinion of a medical mission.

### **Article 74 [Alternatives for Punishment of Minors Who Commit Petty Offenses]**

If the minor commits a petty offense, the court can instead of the punishments contained in this Law reprimand him in the judiciary session or order his surrender to one of his parents or someone who has a right of guardianship over him or an honest person who undertakes his sound education and civility in the future, or order his quarantine in the Correction House or charity organization and/or corrective schools which shall be established for this purpose by the State.

### **Article 75 [Alternatives for Punishment of Minors Who Commit Misdemeanors]**

If the minor commits misdemeanor, the court can take one of the following measures in his case:

1– His surrender to one of the persons included in article 74 of this Law, provided its duration is not more than 3 years, and less than 6 months and that the person to whom he is surrendered should undertake, in writing, his future sound education and civility.

2– His quarantine in the Correction House or one of the corrective schools for a period of 6 months to 3 years.

### **Article 76 [Alternatives for Punishment of Minors Who Commit Felonies]**

1– If the minor commits a felony, whose punishment is death or continued imprisonment, the court can order his quarantine in the Correction House or charity organizations or corrective schools, provided its duration is not more than 5 years.

2– If the anticipated punishment for the felony is long imprisonment, the period of quarantine cannot be less than 1 year and more than 4 years.

### **Article 77 [Cash Penalty for Recidivism of Minor in Care of Guardian]**

If the minor after his surrender to an undertaker and during the period of undertaking commits misdemeanor or felony, the court can penalize the undertaker with cash penalty as follows:

1– In case of commitment of misdemeanor, from 1,000 to 2,000 Afghanis.

2– In case of commitment of felony, from 2,000 to 5,000 Afghanis.

### **Article 78 [Request for Minor's Return to Relatives]**

If the minor is surrendered to someone who is not his relative, his return by the court to a relative shall be effected at his own request or that of one of his relatives, provided at least 1 year has passed from the time of enforcement of the order. Renewal of request for return is not permitted until 6 months from the time of its refusal. If the

court orders the return of minor to his relatives, this order is considered the same as the order for surrender of minor.

**Article 79 [Termination of Quarantine in Institution]**

The minor who is quarantined in the Correction House or charity organizations or corrective schools can leave the institution at the proposal of concerned institution, agreement of the public attorney and the approval of the Attorney General. The said minor cannot under any circumstances remain in the above institutions for more than 5 years or after the age of 18.

**Article 80 [Hiding Suspected or Escaped Minors]**

If a person hides the minor after the issuance of order for his surrender or make him escape or help him in escape by other means shall be sentenced to imprisonment of up to 6 months or cash fine of up to 6,000 Afghanis.

**Article 81 [Expiration of Order for Surrender to Undertaker]**

The order for surrender to the undertaker shall lapse upon completion of the age of 18.

**Article 82 [Alternatives for Punishment of Teenagers Who Commit Petty Offenses]**

If the teenage commits a petty offense, the court, can sentence him to the punishment anticipated in this Law, or order his surrender to one of the parents or someone who has a right of guardianship over him or an honest person who undertakes his proper behavior in the future.

**Article 83 [Alternatives for Punishment of Teenagers Who Commit Misdemeanors]**

If the teenage commits misdemeanor, the court can in his case, instead of the anticipated punishments for the said crime, take one of the measures contained in article 76 of this Law.

**Article 84 [Alternatives for Punishment of Teenagers Who Commit Felonies]**

1– If the teenage commits a felony, whose punishment is death or continued imprisonment, the court can order his quarantine in the Correction House for a period not less than 2 years and not more than 15 years.

2– If the anticipated punishment for the felony is long imprisonment, the minimum period of his quarantine in the Correction House cannot be less than 1 year and its maximum not more than half of the maximum of long imprisonment.

3– If the maximum punishment for the felony should be less than 10 years, the court can order his quarantine in the Correction House for a period of less than 1 year and more than half of the maximum of the anticipated punishment for that same felony.

**Article 85 [Consideration of Age at Commission of Crime and at Issuance of Verdict]**

1– The age of minor and teenager at the time of commission of the crime is considered the basis for determination of the responsibility.



2– If the minor commits a crime and by the time of issuance of verdict reaches the age of teenage, he shall be treated as minor.

**Article 86 [Consideration of Age at Issuance of Verdict and Effect on Punishment of Teenagers]**

1– If the teenager commits a crime and by the time of issuance of verdict completes the age of 18, he shall be treated as teenage.

2– If the crime which the said teenager has committed is a felony or misdemeanor for which the anticipated punishment in the law is long or medium imprisonment, the court can instead of quarantine in the Correction House sentence him to medium imprisonment for misdemeanor.

3– The period of imprisonment in instances mentioned in the above paragraph can in no case exceed the period of quarantine in the Correction House anticipated in this Law for the felony or misdemeanor which has been committed.

4– Punishments other than long and medium imprisonment anticipated in this Law can be substituted by cash fine which should not exceed 5,000 Afghanis.

5– If the teenager during the period of this quarantine in the Correction House completes the age of 18, he shall be transferred to the relevant prison for the remainder of his period of quarantine.

**Article 87 [Trial of Minors and Teenagers Who Commit More than One Crime for Most Serious Crime Only]**

If the minor or teenager commits more than one crime, his trial is permitted on the bases of a single claim for all the crimes, provided the court passes its verdict on the basis of that crime for which the heavier punishment is anticipated in the law.

**Article 88 [Alternatives for Punishment Not Affected by Recidivism]**

Repetition of crime by minor and teenage does not obstruct repetition of punishment and adaptation of measures anticipated in this Law.

**Article 89 [Maximim Duration for Quarantine of Minors and Teenagers]**

If the minor or teenager is sentenced to repeated quarantines, the total period of his quarantine does not exceed 5 years in the corrective school and 15 years in the Correction House.

**Article 90 [Release of Teenager from Correction House]**

1– If a teenager who has not completed the age of 18 spends two thirds of his sentence in the Correction House, the court can at the request of the teenage or one of his parents or someone who has the right of guardianship over him order his release on the condition that the Correction House should certify in a report his good behavior and the public attorney confirm it. In this case, the teenage shall be surrendered to one of the persons included in article 74 of this Law.

2– If the teenager, having spent two third of his sentence in the Correction House, competes the age of 18, his release shall take place when he undertakes in writing to keep his behavior in the future good and acceptable.

**Article 91 [Limitation on Consequential Complementary Punishments and Security Measures]**

Provisions relating to repetition in crime and consequential complementary punishments and security measures are not applicable to minors and teenagers. Confiscation, closure of place, and prohibition from going to places which cause deviation of morals are excepted from this provision.

**Article 92 [Prohibition of Substitution of Cash Fine for Imprisonment for Minors and Teenagers]**

Substitution of cash fine with imprisonment is not permitted in the case of minors and teenagers.

**Article 93 [Eligibility of Perpetrator for Death Sentence Upon Reaching Age 18]<sup>1</sup>**

When a person who has committed a crime completes the age of 18, the person may be sentenced to death.

**2ND [TOPIC] – LACK OF WILL**

**[SUBTOPIC] 1– RELUCTANCE**

**Article 94 [Criminal Act Committed Under Influence of Irresistible Force]**

A person who commits a crime under the influence of a moral or material force, repulsion of which is not possible otherwise, shall not be considered responsible.

**[SUBTOPIC] 2– COMPULSION**

**Article 95 [Justification of Criminal Act Committed to Prevent Greater Harm]**

A person who for the sake of saving his own soul or good or the soul of good of someone else comes to face great and immediate danger, such as not to be able to ward it off without committing an act of crime, shall not be considered responsible provided that the person has not deliberately caused the said danger and that the damage to be avoided should be greater than the damage from the act of crime.

**Chapter 2 – Responsibility of Legal Persons**

**Article 96 [Liability and Method of Punishment for Legal Persons that Commit Criminal Acts]**

1– Legal persons, with the exception of State institutions, departments, and enterprises, shall be held responsible for the crimes that their representatives, chiefs,

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<sup>1</sup> Text of article 93 amended by Annex No. 2 to the Penal Code, published in Official Gazette No. 498, dated 1981/12/22 (1360/10/01), at page 1. The original text of this article (on substitution of continued imprisonment for sentence of death) reads as follows:

*“A person who at the time of committing a crime has completed the age of 18 but has not completed the age of 20 can be sentenced to death.*

*“In this case, continued imprisonment shall be substituted for execution.”*

and deputies commit in the performance of duty in the same and on account of legal persons.

2– The court cannot sentence the legal person, except for cash punishment, to confiscation and security measures anticipated in this Law.

3– In cases where the law has anticipated the principal punishment for the crime committed something other than cash punishment, these punishments shall be substituted with cash punishment.

4– Conviction of legal person as above does not prevent application of the anticipated punishments of this Law in the case of the real person who has committed the crime.

## SECTION 4 – PUNISHMENT

### [Summary of Section 4]

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### Chapter 1 – Principal Punishments

#### Article 97 [Principal Punishments Defined]

Principal punishments are:

- 1– Execution.
- 2– Continued imprisonment.
- 3– Long imprisonment.
- 4– Medium imprisonment.
- 5– Short imprisonment.

6– Cash punishment.

**Article 98 [Method of Execution]<sup>2</sup>**

Execution is shooting a convicted person to death.

**Article 99 [Continued Imprisonment Defined]**

1– Continued imprisonment is the confinement of convicted person in one of the jails allocated for this purpose by the State.

2– The duration of continued imprisonment is from 16 to 20 years.

**Article 100 [Long Imprisonment Defined]**

1– Long imprisonment is the confinement of convicted person in one of the jails allocated for this purpose by the State.

2– The duration of long imprisonment cannot be less than 5 years and more than 15 years.

3– In continued and long imprisonments, the convict is obliged to perform those reformatory works which have been anticipated in the law pertaining to prisons.

4– The prisoner who has completed the age of 60 is not obliged to work, even if it is reformatory.

**Article 101 [Medium Imprisonment Defined]**

1– Medium imprisonment is the confinement of convict person in one of the jails allocated for this purpose by the State.

2– The duration of medium imprisonment is not less than 1 year and more than 5 years.

3– A person sentenced to medium imprisonment is obliged to perform those reformatory works which have been anticipated in the law pertaining to prisons.

**Article 102 [Short Imprisonment Defined]**

1– Short imprisonment is the confinement of convicted person in one of the jails allocated for this purpose by the State.

2– The duration of short imprisonment is not less than 24 hours and more than 1 year.

3– A person sentence to short imprisonment is not obliged to perform any type of work.

**Article 103 [Calculation of Period of Imprisonment]**

1– Calculation of imprisonment shall start from the day on which the convict has been imprisoned in the jail.

2– The period of detention shall be deducted from the convict's period of imprisonment.

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<sup>2</sup> Article 98 amended by Annex No. 3 to the Penal Code, published in Official Gazette No. 547 (No. 19 of 1362), dated 1984/01/06 (1362/10/15), at page 2. The original text of article 98 reads as follows:

*“Execution is the hanging of convicted person on gallows until death.”*

**Article 104 [Cash Punishment Defined]**

Cash punishment is the obliging of convicted person to pay an amount of money, to which he has been ordered, to the State treasury.

**Article 105 [Cash Punishment Payable in Afghan Currency]**

Cash punishment shall be fixed in Afghan currency.

**Article 106 [Minimum Cash Punishment]**

The minimum cash punishment cannot be less than 50 Afghanis.

**Article 107 [Minimum and Maximum Cash Punishment to Be Determined by Law]**

The minimum and maximum of cash punishment shall be determined by provision of law, unless otherwise stipulated in the law.

**Article 108 [Considerations for Determination of Cash Punishment Amount]**

The court shall observe the following situations and conditions in the determination of cash punishment within the anticipated range of minimum and maximum:

- 1– Securing the penal objectives.
- 2– Personal, social, and economic conditions of the person who has committed the crime.
- 3– The magnitude of benefit derived from the crime or was expected to be derived.
- 4– The kind of right or interest which has been offended.

**Article 109 [Cash Punishment up to Double the Maximum Amount in Certain Cases]**

The court can, on the basis of its own discernment or the request of public attorney, raise the maximum of anticipated cash punishment to its double, taking into consideration the situations and conditions included in article 108 of this Law, provided it does not result in the total bereavement of the convict from his possessions.

**Article 110 [Cash Punishment Generally Not Permitted for Felonies]**

Cash punishment is not permitted for felonies, unless the law has clearly stipulated so.

**Article 111 [Procedure for Payment of Cash Punishment]**

Payment of cash punishment is made in accordance with the provisions of the Criminal Procedure Code.

**Chapter 2 – Consequential Punishments**

**Article 112 [Consequential Punishments Defined]**

Consequential punishments are those punishments to which the convicted person is subjected on the basis of provision of the law without its stipulation in the verdict of the court.

### **Article 113 [Consequential Punishments for Continued or Long Imprisonment]**

(1) A person who is sentenced to continued or long imprisonment of more than 10 years shall also be deprived of the following rights and privileges:

- 1– State employment.
- 2– Service in the armed forces.
- 3– Membership of Parliament, municipalities, provincial, and local councils.
- 4– Participation in elections as an elector.
- 5– Use of State titles and decorations, both domestic and foreign.
- 6– Membership in boards of directors of companies and banks.
- 7– Executorship, trusteeship, and procuration in transactions and claims.
- 8– Acting as witness in contracts and transactions during the period of conviction.
- 9– Concluding contracts with State departments and/or obtaining concession from the State.
- 10– Ownership on concession (license), editorship, or chief-editorship of magazines and dailies.
- 11– Administration of goods and estate during the period of conviction, with the exception of dedication and will.

(2) If the convicted person is enjoying any of the above rights and privileges at the time of issuance of the verdict, he shall be deprived of it at the instance of issuance of the verdict.

### **Article 114 [Temporary Relief from Deprivation of Administration and Possession of Goods]**

- 1– Deprivation from administration and possession of goods can be temporarily lifted, when need be, with the permission of the court.
- 2– The validity or otherwise of any commitment which the convicted person may make without the permission of the mentioned court [...?].

### **Article 115 [Designation of Trustee for Administration Imprisoned Person's Property]**

- 1– The court can, at the request of a person sentenced to continued or long imprisonment or the public attorney or a concerned person, designate a trustee for the administration and supervision of the convict's property.
- 2– The court shall oblige the trustee to give material guarantee and appropriate suitable actions for him for this duty.
- 3– Trustee's taking possessions of goods under his administration shall be subject to the supervision of the court which has designated the trustee.
- 4– The goods which have been placed under trusteeship shall be returned to the said convict after the application of the punishment or its cancellation, for whatever reason there may be, and the trustee shall present him with a statement of the account of goods under his custody.

### **Article 116 [Consequential Punishments Applicable to Persons Sentenced to Death]**

1– A person who is sentenced to death shall be deprived of the rights and privileges listed in [sub]paragraphs 1–11 [of paragraph 1] of article 113 of this Law.

2– Legal possessions of a person who has been sentenced to death shall be regarded as void; the court can appoint trustee for supervision and administration of his estate at the request of public attorney or other concerned persons.

## **Chapter 3 – Complementary Punishments**

### **Article 117 [Complementary Punishments Defined]**

Complementary punishments are:

- 1– Deprivation of some rights and privileges.
- 2– Confiscations.
- 3– Publication of verdict.

### **Article 118 [Deprivation of Some Rights and Privileges]**

1– The court can in case of long imprisonment of up to 10 years or in case of medium imprisonment, in addition to principal punishment, deprive the person from some rights and privileges mentioned in [sub]paragraphs 1–11 [of paragraph 1] of article 113 of this Law on the condition that the period of the deprivation should not be less than 1 year and more than 3 years.

2– Complementary punishment shall be enforced after the implementation of the principal punishment or its cancellation, whatever the reason may be.

### **Article 119 [Confiscation of Certain Goods Obtained or Used in Commitment of Crime]**

1– The court can in cases where the law has not anticipated confiscation as a punishment, order confiscation of goods obtained through commitment of crime or used during commitment or procured for use in the commitment of crime.

2– Confiscation order in no case can interfere with the rights of another person of good will.

### **Article 120 [Publication of Verdict]**

1– The court can, at its own discretion or the request of the [public?] attorney, stipulate in the verdict the publication of the verdict.

2– Publication of the verdict before its finalization is forbidden.

3– In crimes such as defamation, insult, and abuse, the agreement of the person against whom the act has been committed is necessary with respect to publication and revelation of the verdict.

4– In case defamation, insult, and abuse crimes are committed through printed media, the court orders its publication in the same media, keeping in view the provision of paragraph 3 of this article. In case of refusal or reluctance in publishing the verdict without having reasonable excuses, the editor-in-chief will be sentenced to a cash fine of not more than 5,000 Afghanis.

## **Chapter 4 – Security Measures**

### **PART 1 – GENERAL PROVISIONS**

#### **Article 121**

1– The court shall order adaptation of anticipated security measures of this Law when it is proven that the convict has committed an act which according to the Law is considered crime and the condition of the criminal is considered a danger against public security.

2– The condition of the criminal shall be considered a danger to public security when his behavior at present or in the past, or the condition and causes of the crime strongly indicate that the criminal shall commit another crime.

3– Security measures can be ordered by the court only if cases and conditions anticipated in this Law.

#### **Article 122**

Security measures are:

- 1– Measures for deprivation of liberty.
- 2– Measures for limitation of liberty.
- 3– Measures for deprivation of rights.
- 4– Financial measures.

### **PART 2 – SECURITY MEASURES FOR DEPRIVATION AND LIMITATION OF LIBERTY**

#### **1ST [TOPIC] – QUARANTINE IN RELEVANT HOSPITALS**

#### **Article 123**

1– The court can order the quarantine of a convict for treatment in one of the mental hospitals or other health centers allocated by the State for this purpose.

2– The duration of the quarantine period in this case cannot be less than 6 months.

3– The administration of the hospital and other health centers have to submit to the court a report on health condition of the convict, after it s review by the attending doctors, once every 6 months. The court can order dismissal of the convict on the basis of the report presented.

4– The court can order renewed quarantine of the convict in hospital or health centers at the request of public attorney or other concerned persons and the agreement of attending doctors.

#### **2ND [TOPIC] – PROHIBITION OF MOVEMENT AND RESIDENCE IN CERTAIN AREAS**

#### **Article 124**

1– The court shall order prohibition of movement and residence in areas conducive to moral deviation when the. presence of the person in such place is most likely to result in the repetition of crime.



2– If a person is punished for committing the crime of using narcotic or intoxicating substances more than once, the court can, in addition to the principal punishment, prohibit the person from movement in one or several places. the duration of such prohibition period cannot be more than 3 years.

### **Article 125**

The court can, in addition to the principal punishment prohibit a person from living in specified places after the implementation or cancellation of the punishment. The duration of such prohibition period cannot be less than 1 year and more than 5 years. In this case the court will consider the health, sensual, psychological and social condition of the convict.

### **Article 126**

The court can, in addition to the principal punishment, prohibit the convict of a dishonorable felony or misdemeanor from living in specified places. The order of prohibition of living in such areas can be amended or abolished at the request of public attorney or that of the verdict.

## **PART 3 – MEASURES FOR DEPRIVATION OF RIGHTS**

### **1ST [TOPIC] – ABROGATION OF GUARDIANSHIP, EXECUTORSHIP, AND TRUSTEESHIP**

#### **Article 127**

Abrogation of guardianship, executorship, and trusteeship is the deprivation of a convict from exercising such authority over others, whether it is related to the soul or property.

#### **Article 128**

The court can order abrogation of guardianship, executorship and trusteeship in the following instances:

1– If the guardian, executor or trustee commits a misdemeanor which is emanating from his legal obligations pertinent to the mentioned duties.

2– If the guardian, executor or trustee commits a crime which proves his incompetence in the performance of the duties of guardianship, executorship or trusteeship.

### **2ND [TOPIC] – DEBARMENT FROM ENGAGEMENT IN A PROFESSION AND TRADE**

#### **Article 129**

Debarment from engagement in a profession and trade includes the prohibition of the person from all sorts of professions and trades and industrial, commercial and technical activities, engagement in which is legally dependent upon the permission of an official authority

#### **Article 130**

1– If a person, by reason of committing a felony or misdemeanor emanating from his obligations related to his profession or trade, is sentenced to an imprisonment period of not less than 6 months, in addition to the principal punishment, the court

can debar him from his profession or trade; however, the duration of such debarment period cannot be more than 1 year.

2– If the said convict, after the expiration of his period of debarment from the relevant profession or trade, commits the same or a similar crime as the first one within 5 years from the date of issuance of final verdict, the court can order his debarment from the relevant profession or trade in addition to the principal punishment. This debarment cannot be for a period of more than 3 years.

### **Article 131**

If a person is sentenced to punishment for a traffic crime, the court can debar him from driving and renewal of driving license in addition to the principal punishment. This debarment cannot be for a period of less than 3 months and more than 3 years.

## **PART 4 – FINANCIAL SECURITY MEASURES**

### **1ST [TOPIC] – CONFISCATION**

### **Article 132**

In case the forfeited articles are things whose manufacture, use, holding, supply and sale are considered crime by itself, the court shall any way order their confiscation, even if the said articles are not the property of the convict or if the accused is acquitted by the court.

### **2ND [TOPIC] – CLOSURE OF PLACE**

### **Article 133**

In crimes, where the law in its punishments has anticipated the closure of place of commitment, the court can sentence the accused, in addition to the anticipated punishments, to closure of the place used for committing the crime. Duration of such closure cannot be less than 1 month and more than 1 year.

### **Article 134**

1– Order to closure of place of commitment of crime shall be considered to include debarment of the person from engagement in commercial and industrial activities or the profession or trade relevant to that place.

2– Debarment of the person in the above instance includes the relatives of the convict and other persons to whom the convict has left or leased the place of commitment of crime after the incident of crime.

3– The owner of the place or any other person who may have a genuine right in the place of commitment of crime shall not be subjected to the above debarment if they have no relation with the criminal act.

### **3RD [TOPIC] – DISCONTINUATION OF ACTIVITIES OF A LEGAL PERSON AND ITS DISSOLUTION**

### **Article 135**

If the president, director, representatives or legal attorney of legal person commits a felony or misdemeanor in the name and on account of the legal person and is,

therefore, sentenced to imprisonment for 6 months or more, the court can discontinue the activity of legal person. The duration of such discontinuation cannot be less than 3 months and more than 3 years. In the case of repetition of felony or misdemeanor, the court shall order its dissolution.

### **Article 136**

1– Discontinuation of the activity of legal person includes debarment from engagement in acts related to the legal person during the term of sentence, even if undertaken under different title and/or administration of a separate executive board.

2– Order to dissolution of legal person includes liquidation of assets and mollification of other legal possessions and administrative organization of the legal person.

## **PART 5 – MISCELLANEOUS PROVISIONS RELATED TO SECURITY MEASURES**

### **Article 137**

With the exception of instances anticipated in articles 123, 127, and 132 of this Law, persons who violate the provisions of security measures to which they have been sentenced shall be sentenced to imprisonment of not more than 1 year or cash punishment of not more than 12,000 Afghanis.

### **Article 138**

A court order with respect to suspension of enforcement of punishment does not include suspensions of enforcement of security measures, except in cases where the law or the court has stipulated to the contrary.

### **Article 139**

When the period of suspension of application of punishment lapses or if during this period no order regarding its abrogation is issued, the order related to security measures, whether enforced or suspended, shall be so considered as if it had not been issued at all.

### **Article 140**

1– With the exception of confiscation and dissolution of legal person the court can, with respect to security measures, order suspension or amendment of security measures anticipated in this Law at the request of the convict or other concerned persons.

2– Should the request for suspension or amendment of security measures not be accepted by the court, the request cannot be renewed before 1 year.

3– The court can, at the request of public attorney or its own discretion, order the suspension of security measures without any time limit.

## Chapter 5 – Legal Excuses and Judiciary Extenuating Conditions

### Article 141

1– Excuses either acquit from charges or extenuate them. acquitting and extenuating excuses shall be made clear en the Law; otherwise, judicially extenuating conditions are those instances where the crime is committed on the basis of honorable motives or that the criminal has acted because of unlawful incitement or the person against whom the crime has been committed, or that the court makes the inference from the conditions and circumstance of the crime and the criminal.

2– The court must clearly describe in its verdict the acquitting excuses.

### Article 142

Acquitting excuses comprise the basis of restriction of criminal responsibility and hinders the ordering of principal, consequential and complementary punishments.

### Article 143

1– When extenuating excuses come into presence in a felony for which the punishment is death, the court can reduce it to continued imprisonment.

2– If the punishment for the felony is continued imprisonment or long imprisonment, the court can reduce the continued imprisonment to long imprisonment and the long imprisonment to medium imprisonment.

### Article 144

When extenuating excuses come into presence in misdemeanor, its punishment shall be reduced as follows:

1– If the anticipated punishment has a minimum limit, the court in determining the punishment cannot be restricted by it.

2– If the anticipated punishment, the court can order one of them.

3– If no minimum punishment is fixed in the law, the court can order cash punishment

### Article 145

When the court in examination of a case finds out that the conditions and circumstances of crime and criminal it the committed felony require compensation, it can change the anticipated punishments of the felony as follows:

1– Death sentence to continued imprisonment or long imprisonment which should not be less that 10 years.

2– Long imprisonment to medium or short imprisonment which should not be less than 6 months.

### Article 146

When the court in examination of a case finds out that the conditions and circumstances of crime and criminal in the committed misdemeanor require compassion, it can apply the provisions of article 144 of this Law.

## Article 147

In **all** cases in which the court extenuates the punishment in accordance with the provisions of articles 143, 144, 145, and 146 of this Law, it is obliged to explain the excuses and circumstances, based on which the punishment has been extenuated, in the reasons for its verdict.

## Chapter 6 – General Aggravating Conditions

### Article 148

Without prejudice to the special conditions of aggravation of punishment anticipated in this Law, general aggravating conditions are:

- 1– When the motive of crime is low and corrupt.
- 2– When the crime takes place in realization of weakness of the senses of the person against whom a felony is committed or his inability to defend himself.
- 3– When the crime is committed in a savage manner or the person against whom a felony is committed has been disfigured.
- 4– When an official of public services, making use of his official prestige and influence, commits a crime.
- 5– When, making use of the state of economic crisis, crime is committed.
- 6– When embezzlement of Government or public property worth more than 1 million Afghanis and in case of bribery more than 100,000 Afghanis is committed by a **civil servant**.<sup>3</sup>

### Article 149

If an aggravating condition is present in the crime, the court can order as follows:

- 1– To death, in cases the anticipated punishment is continued imprisonment.
- 2– To more than the maximum of punishment, in case where the anticipated punishments are long, medium or short imprisonment, provided it does not exceed the double of maximum of principal punishment. In any case, the aggravation of long imprisonment cannot exceed 20 years.

### Article 150

1– Whenever aggravating conditions come together in one crime with extenuating excuses or judicially extenuating conditions, which require compassion, the court shall observe first of all the aggravating conditions, secondly the extenuating excuses and lastly the judicially extenuating conditions requiring compassion

2– If the aggravating conditions should be equivalent to extenuating excuses and judicially extenuating conditions requiring compassion, the court can order to the anticipated principal punishment of the crime without taking any of these conditions into consideration. If the aggravating conditions and opposing excuses and judicially extenuating conditions should be different in their effect, the court can prefer the strongest of them for the purpose of insuring justice.

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<sup>3</sup> Paragraph 6 added by Decree No. 128 dated 1366/04/20 on Increased Penalties for Embezzlement Crimes, published in Official Gazette No. 624 dated 1366/06/15.

### **Article 151**

1– If the crime has been committed for the purpose of gaining an illicit acquisition and the punishment anticipated in the law should be other than compensation for the damage, the court can order compensation of the damage in addition to the anticipated punishment, provided that the compensation does not exceed the price of what the criminal has acquired or was aiming to acquire.

2– This provision is applicable only when the law has not stipulated the contrary.

### **Article 152**

The following persons shall be considered recidivist:

1– A person who has been sentenced to punishment for committing felony and commits felony or misdemeanor after the issuance of final verdict and prior to expiration of the deadline fixed by law for restoration of honor.

2– A person who has been sentenced to a punishment for committing misdemeanor and commits a felony after the issuance of final verdict and prior to the expiration of the deadline fixed by law for restoration of honor.

### **Article 153**

Crimes which are mentioned together in one paragraph of the following paragraphs are considered similar:

1– Embezzlement, larceny, trickery and fraud, threat, dishonesty in trust, usurpation of goods and documents and hiding article obtained through these crimes or taking possessions of the said article illegitimately;

2– Defamation, insult, abuse and divulgence of secret;

3– Crimes against public manners and good morals;

4– Murder and intentional molestation;

5– Other intentional crimes which have been described under the same section in this Law.

### **Article 154**

Verdicts of foreign courts are not credible in the case of recidivism, unless concerned with the crime of making counterfeits of Afghanistan or other countries' money.

## **Chapter 7– Plurality of Crime and Its Effects on Punishment**

### **Article 155**

If commitment of a single act produces several crimes the wrongdoer shall be sentenced to the punishment of the crime with the heaviest punishment; if the anticipated punishments are similar, he shall be sentenced to one of them.

### **Article 156**

If several crimes result from commitment of several acts and these crimes are so related to one another as not to be separable and a single objective should be responsible for bringing them together, the court shall order the anticipated punishment of each crime but stipulate the enforcement of only the heaviest

punishment. This, however does not obstruct the application of consequential and complementary punishments and security measures stipulated by the law or to which he is sentenced because of his other crimes.

#### **Article 157**

If a person has been sentenced to an inconsiderable punishment and, later, because of commitment of another crime is sentenced to more severe punishment, the latter punishment shall be applied and he would be given credit for the period he has spent in prison for his first conviction.

#### **Article 158**

If a person commits several crimes and these crimes are not related to one another and prior to the issuance of verdict with respect to any of them there should be no unity no objective to bring the said crimes together, the court shall order the anticipated punishment of each crime and the punishments shall be enforced on him one after another, provided that the total period of imprisonment should not exceed 20 years.

#### **Article 159**

When a person is convicted for committing a crime and later is sentenced to punishments for committing another crime, both punishments shall be implemented one after the other, even if the total period of imprisonment exceeds 20 years.

#### **Article 160**

Cash, consequential and complementary punishments and security measure are all enforceable no matter how numerous.

### **Chapter 8 – Suspension of Enforcement**

#### **Article 161**

1– In crimes whose punishment is imprisonment of up to 2 years or cash fine of up to 24,000 Afghanis, when the court is assured, in view of the convict's morals, background and age or other circumstances which have caused the crime, that he will not commit a crime again, the court can stipulate the suspension of enforcement of the verdict and include in it consequential and complementary punishments and security measures.

2– The court is obliged to state in the verdict its reasons for suspension of the punishment.

#### **Article 162**

The period of suspension of enforcement is 3 years and is calculated from the time of finalization of the verdict.

#### **Article 163**

Suspension of enforcement can be cancelled in one of the undernoted instances:

1– When the convicted person commits a similar or more serious crime during the period of suspension.

2– When it is proven during the period of suspension that the person has been convicted for misdemeanor or felony prior to the issuance of order of suspension of enforcement from which the court has not been aware.

3– When the convicted person, during the period of suspension, commits a felony or misdemeanor whose punishment is longer than 3 months in prison, regardless of whether or not the order of his punishment is issued within period or after its expiration.

### **Article 164**

Cancellation of suspension of enforcement takes place by the same court which has ordered the suspension of enforcement. If the reason for cancellation of suspension is the enforcement of a punishment which has been ordered after suspension of enforcement, in that case the order for cancellation of suspension is issued by the court which has ordered the mentioned punishment, regardless of whether the order is issued at the discretion of the court itself or the request of the public attorney.

### **Article 165**

Cancellation of suspension of enforcement of verdict requires the restitution of punishment of the convict, including the consequential, complementary punishments and security measures.

### **Article 166**

If the convict does not commit a crime during the period of suspension of enforcement, the effects of the verdict shall disappear and it shall be so considered as if no verdict had ever been issued.

## **SECTION 5 – DISMISSAL OF CRIME AND PUNISHMENTS**

[Summary of Section 5]

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### **Chapter 1 – General Provisions**

#### **Article 167**

Crime is dismissed because of the following reasons:

1– Death of the accused.

2– General amnesty.



## **Article 168**

1– The verdict which has been pronounced concerning punishment by security measures shall be dismissed by general amnesty, restoration of honor and expiration of the period of suspension of enforcement, provided that during this period anything that causes its nullification has not taken place.

2– Principal punishment, consequential and complementary punishments and security measures are dismissed due to dismissal of the verdict because of one of the reasons mentioned in the above paragraph, death of convict and special amnesty, with due regard to the provisions of chapter 2 of this section.

## **Chapter 2 – Detailed Provisions**

### **PART 1 – DEATH OF THE CONVICTED PERSON**

#### **Article 169**

1– If the convict dies before finalization of the verdict, the crime and all its effects shall be dismissed; however, the person who has been damaged by this crime can file his claim in the specialized civil court.

2– If the convict dies after finalization of the verdict, punishment and security measures to which he has been sentenced are dismissed. This cannot obstruct the enforcement of the sentence on his estate with respect to financial punishment, financial security measures, payments, substitutions and the things whose return is necessary.

### **PART 2 – GENERAL AND SPECIAL AMNESTY**

#### **1ST [TOPIC] – GENERAL AMNESTY**

#### **Article 170**

1– General amnesty is proclaimed by the law and as its effect the claim is cancelled and the verdict convicting the criminal is nullified. General amnesty dismisses all principal, consequential and complementary punishments and security measures, and does not affect previous enforced punishments, provided the amnesty law has (not) stipulated the contrary.

2– If the general amnesty law covers one of the punishments of the convict, it is considered as special amnesty and the provisions of special amnesty apply to it.

3– General amnesty does not interfere with the rights of others.

#### **2ND [TOPIC] – SPECIAL AMNESTY**

#### **Article 171**

1– Special amnesty is proclaimed by presidential decree and dismisses all or part of the final punishment to which the convict has been sentenced, or it amends the punishment to a lighter punishment which has been anticipated in the law.

2– Special amnesty cannot dismiss consequential, complementary and other consequences of punishments and security measures. Likewise, it cannot affect

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previously implemented punishments, unless the amnesty decree stipulated the contrary.

**PART 3 – RESTORATION OF HONOR AND POSTPONEMENT OF  
ENFORCEMENT OF THE SENTENCE**

**Article 172**

With respect to restoration of honor and postponement of enforcement of the sentence, provisions of the Criminal Procedure Code shall be applied.

**(End of Book One)**

# BOOK TWO – FELONIES, MISDEMEANORS, PETTY OFFENSES, AND THEIR PUNISHMENTS

[Summary of Book Two]

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**SECTION 1 – FELONIES AND  
MISDEMEANORS AGAINST PUBLIC  
INTEREST**

**[Summary of Section 1]**

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**Chapter 1 – Crimes Against Internal Security of the State**

**Article 173**

When a person commits an act as a result of which the whole or part of the territory of the State of Afghanistan comes under the domination of a foreign State, or its independence or territorial integrity is impaired, or part of the territory under the domination of the State is separated from its administration, the person shall be sentenced to death.

### **Article 174**

When a person provides facilities for entry of enemy to the country or surrenders to the enemy a city, fortress, establishment, armaments depot and center, food commodities reserves, transportation facility, factory and production center, and other things provided for the purpose of defending the country or used for its defense, the person shall be sentenced to death.

### **Article 175**

If a person, in association with foreign persons or [a foreign] State or persons who work for such State, takes up arms against the State of Afghanistan, the person shall be sentenced to death.

### **Article 176**

When a person spies for a foreign State or persons who work for such State while in armed and aggressive struggle against the State of Afghanistan, the person shall be sentenced to death.

### **Article 177**

1– If a person joins armed forces which are at war with the State of Afghanistan, the person shall be sentenced to death.

2– If the crime mentioned in the above paragraph is committed in other than time of war, the person shall be sentenced to continued imprisonment.

### **Article 178**

1– If a person, at time of war, one way or another, delivers or reveals a defense secret of the country to a foreign State or persons working for such State, the person shall be sentenced to death.

2– If the crime mentioned in the above paragraph is committed in other than time of war, the person shall be sentenced to continued imprisonment.

### **Article 179**

1– If a person tries, one way or another, at time of war, to acquire information about a defense secret of the country for the purpose of delivering or revealing it to a foreign State or persons who work for such State, the person shall be sentenced to death.

2– If the crime mentioned in the above paragraph is committed in other than time of war, the person shall be sentenced to continued imprisonment.

### **Article 180**

1– If a person, at time war, destroys something which is considered one of the defense secrets of the country or renders it unusable in the interest of a foreign State, the person shall be sentenced to death.

2– If the crime mentioned in the above paragraph is committed in other than time of war, the person shall be sentenced to continued imprisonment.

### **Article 181**

If a person encourages soldiers to enter the military service of a foreign State which is at war with the State of Afghanistan or provides the ground for it or, one way or another, engages himself in assembling soldiers, persons, goods, facilities and

equipment, or takes measures in the interest of the State at war with Afghanistan, the person shall be sentenced to death.

### **Article 182**

1– If a person demoralizes, at time of war, the armed forces of the State or People in the interest of an enemy, by whatever means it may be, or weakens its defense power or morals, the person shall be sentenced to death.

2– If the crimes mentioned in the above paragraph are committed in other than time of war, the person shall be sentenced to continued imprisonment.

### **Article 183**

1– If a **civil servant**, contract employee or other officials of public services reveals one of the defense secrets of the country at time of war, with the intention of delivering or making it known to a foreign State or persons working for that State, in such a way that it should damage the defensive, political or economic stand of the country the person committing it shall be sentenced to continued imprisonment.

2– If the crime mentioned in the above article is committed in other than time of war, the person committing it shall be sentenced to long imprisonment.

### **Article 184**

1– If a person, at time of war, deliberately publishes news, declarations, false or self-interested statements or engages himself in inciting propaganda or written and oral communications, by whatever means it may be, which should damage the defensive power of the country or military operations of the armed forces or create chaos amongst the population or weaken peoples morals, the person shall be sentenced to imprisonment of not less than 10 years.

2– If commitment of the crimes mentioned in the above paragraph is the result of communication links with a foreign State, the person committing it shall be sentenced to continued imprisonment, but if it is the result of communication links with the foreign State which is in a state of hostility with the State of Afghanistan, the person committing it shall be sentenced to [20 years imprisonment].<sup>4</sup>

3– If the crimes mentioned in paragraph 1 of this article are committed in other than time of war, the person committing it shall be sentenced to medium imprisonment.

4– If the crimes mentioned in paragraph 2 of this article are committed in other than time of war, the person committing it shall be sentenced, in the light of circumstances, to long imprisonment.

### **Article 185**

If a person, for the purpose of gaining a moral or material profit for himself or someone else, renders a service to the enemy armed forces, directly or indirectly, in situations other than that mentioned in the forgoing articles, he shall be sentenced to long imprisonment of not more than 10 years.

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<sup>4</sup> Article 2 of the Law on Limitation of the Death Penalty in the Republic of Afghanistan, published in Official Gazette No. 763 dated 1370/12/17 (xxxx/xx/xx), provided for a 20-year sentence of imprisonment for offenses that do not meet the requirements set out in article 1 of that law for sentencing an offender to death.

### **Article 186**

1– A person who, at time of war, himself or through someone else, exports from the country, or through some other country, goods, products and other articles without the approval of the State to a country that is at war with Afghanistan, or imports to Afghanistan the said articles from the hostile country, in addition to confiscation of the objects of crime the person shall be sentenced to long imprisonment and cash fine of 5 times the price of the said goods.

2– If the goods have not been confiscated, the accused shall be sentenced to payment of its price, too.

### **Article 187**

1– If a person, at time of war, himself or through someone else, establishes commercial links without the approval of the State with the subjects or the State that is at war with the State of Afghanistan, or its representatives or commercial agents, wherever they may be resident, in addition to confiscation of the objects of crime he shall be sentenced to long imprisonment of not more than 10 years and cash fine of not less than 100,000 and not more than 1,000,000 Afghanis.

2– If the objects of crime mentioned in the above paragraph have not been confiscated, the court shall order the payment of its price, too.

### **Article 188**

1– If a person, at time of war, deliberately interrupts the performance of all or part of his obligations before the State concerning the import or delivery of the requirements of armed forces or food commodities or other commodities used for protection of the population or, one way or another, resorts to trickery or fraud in the performance of his obligations, he shall be sentenced to long imprisonment. This provision also covers the representatives, deputies or agents in the mentioned obligations.

2– If the crimes mentioned in the above paragraph result in the weakening of the country's defensive power, and movements or operations of the armed forces, the person committing it shall be sentenced to [20 years imprisonment].<sup>5</sup>

### **Article 189**

If the performance of all or part of the obligations mentioned in article 188 of this Law is interrupted due to oversight or shortcoming, the person committing it shall be sentenced to medium imprisonment of not less than 1 year and cash fine of not more than 50,000 Afghani or one of these two punishments.

### **Article 190**

If a person, through an illegal mean, obtains information about one of the secrets of the country and if he has no intention of delivering or making it known to a foreign State or persons working for such State, he shall be sentenced to medium imprisonment.

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<sup>5</sup>*Id.*

### **Article 191**

If a person surrenders to a foreign State or persons working for such State news, information, articles, correspondence, documents, maps, paintings and other articles, not related to political or defense interests of the country, but belonging to Government departments, State enterprises or public utility institutions, and whose publication and distribution to foreign persons are forbidden by law, he shall be sentenced to medium imprisonment or cash punishment of not less than 12,000 and not more than 60,000 Afghanis.

### **Article 192**

1– If a person deliberately destroys or renders unusable all or part of an air, land or water (transportation) means, road, and other establishments belonging to military (authorities) or allocated for the use of armed forces, he shall be sentenced to long imprisonment.

2– If the crimes mentioned in the above paragraph are committed in one of the following instances, the person committing it shall be sentenced to death:

1– If the act is committed in the interest of a State which is at war with the State of Afghanistan.

2– When it endangers conscriptions for the defense of the State or its defense power or military movements.

### **Article 193**

1– If a person, in instances other than that mentioned in the foregoing articles, commits an act which harms national interests, and (to this end) accepts, requests or takes money or some other benefit, himself or through someone else, from a foreign State or persons working for such State, or receives a promise to this effect, he shall be sentenced to long imprisonment of not more than 10 years and cash fine of not less than 100,000 Afghanis and not more than the amount paid or promised.

2– If the person committing the above crime is from **civil servants**, contract employees or other officials of public services, or the crime mentioned in the above paragraph is committed at time of war, the person committing it shall be sentenced to continued imprisonment and the same cash punishment mentioned in the above paragraph.

3– A person who, with the intention of acting against national interests, gives, offers or promises to give the mentioned articles to someone, or acts as a middleman, shall be sentenced to the same punishment of the above paragraph. If the request, acceptance, middling or promise is made in writing, the said crime shall be considered as committed at the instance of issuance of the letter.

### **Article 194**

1– The following persons shall be sentenced to continued imprisonment.

2– A person who spies in the interest of a foreign State or person working for such State with the intention of inflicting an harm on military, political, diplomatic or economic centers of Afghanistan.



3– A person who, knowing the criminal quality of the act, deliberately destroys, hides, embezzles or forgets papers or documents that are related to the security of the State of contrary to other national interests.

4– A person who commits the crime mentioned in this article at time of war shall be sentenced to death.

### **Article 195**

A person who is authorized to discuss State affairs with a foreign State and deliberately acts against the interests of Afghanistan shall be sentenced to continued imprisonment.

### **Article 196**

1– If a person, without the permission of State, summons soldiers or performs other acts of aggression against a foreign State, as an effect of which the State of Afghanistan confronts the danger of war, the person is sentenced to long imprisonment of not more than 10 years.

2– If the crime mentioned in the above paragraph actually results in war, the person committing it shall be sentenced to death.

3– If the crime mentioned in paragraph 1 of this article results in the breaking up of political relations or reciprocal actions, the person shall be sentenced to long imprisonment of not more than 12 years.

### **Article 197**

1– The following persons shall be sentenced to medium imprisonment:

1– Any Afghan who deliberately tries to disseminate news, speeches or false and biased propaganda concerning internal affairs of the country which reduces financial credibility, prestige and standing of the State.

2– Any Afghan who performs an act outside the country which, one way or another, damages national interests.

2– If the crimes mentioned in this article are committed at time of war, the person committing it shall be sentenced to long imprisonment of not more than 10 years.

### **Article 198**

1– The following persons are sentenced to short imprisonment and cash fines of not more than 50,000 Afghanis or one of these punishment:

1– A person who without the permission of concerned authorities flies over Afghanistan.

2– A person who without the permission of concerned authorities tries to enter efforts, defense or security establishment, military barracks, military bases, headquarters, of armed forces, aircrafts, motorized armaments, and other military or security establishments and factories which are in operation in the interests of the country's defense and where the entrance of the public is prohibited.

3– A person who tries to take pictures, make sketches or maps of military centers or other prohibited places.

2– If, in all cases of this article, crime is committed by means of deception, forgery, concealment of identity, occupation, trade or citizenship, or the crime is committed at

time of war the person committing it shall be sentenced to medium imprisonment of not less than 1 year and cash fine of not less than 12,000 Afghanis and not more than 50,000 Afghanis.

3– In case of coincidence of both condition mentioned in paragraph 2 of this article, the person committing the crime shall be sentenced to long imprisonment of not more than 10 years.

4– Initiation of crime mentioned in the above paragraphs of this article is considered commitment of these crimes.

### **Article 199**

1– The following persons shall be sentenced as accomplice in crimes mentioned in this chapter:

1– A person who in spite of his knowledge of criminal intention of the criminal helps him or provides means of living, dwelling, shelter, place of gathering or other facilities or carries letters for him, hides him or transports him.

2– A person who knowingly hides things which have been used during commitment of the crime or are provided for that purpose of things acquired as a result of commitment of the crime.

3– A person who destroys, misappropriates or hides or deliberately alters a document which facilitates and is useful for the discovery of the criminal.

2– In the above cases, the court can decide not to sentence the husband, wife, roots and branches of the criminal, unless the law has provided otherwise.

### **Article 200**

1– If a person, after commitment of crime and before prosecution, informs concerned officials of full identity of principal wrongdoers or accomplices or puts other necessary information related to the discovery of the crime at the disposal of the concerned officials or introduces to the authorities the people committing similar crimes, the court can observe extenuating conditions in his case.

2– If the information is given to concerned authorities before commitment and completion of the crime, the informer shall be exempted from punishment.

### **Article 201**

The following information are considered from the defense secrets of the country.

1– Information on military, political, diplomatic, economic and industrial matters, which according to their nature and in view of defense considerations of the country are not to be known to other persons except those concerned officially with them.

2– Letters, written papers, documents, drawings, maps, pictures, photographs and other items which, in view of defense considerations of the country, are not to be known or available to other persons except those concerned officially with them.

3– News and information related to military organization and strategy, facilitations and in general those [types of] information which are related to military and strategic affairs and written permission of the high military command has not been issued with respect to their publication.

4– News and information related to making decisions on procedures and measures for the discovery and investigation of crimes mentioned in this chapter or the trial of persons committing it; however, the authorized court can permit the publication of those proceedings which it considers necessary.

### **Article 202**

State of war is the period between commencement and end of engagement. The period in which immediate chance of engagement with enemy exists is also considered as the state of war.

[**Article 203. Repealed, Official Gazette No. 765 (1992/1371).**]<sup>6</sup>

## **Chapter 2 – Crimes Against Internal Security of the State**

### **Article 204**

One who by using force tries to over throw the Republican regime of Afghanistan shall be sentenced to death.

### **Article 205**

1– A person who tries to create chaos or to change the Constitution or the form of the State by force shall be sentenced to continued imprisonment.

2– If the attempt to commit the crime mentioned in the above paragraph is made by an armed group, the founder, chief and other person who one way or other has the leadership of the armed group shall be sentenced to death.

### **Article 206**

1– A person who aggresses against the life of the president or deprive him of is liberty shall be sentenced to death.

2– The initiator of the above crime shall be sentenced to continued imprisonment.

### **Article 207**

1– A person who by the use of force, threat, or terror makes the President perform an act which is legally within his authority, or forcefully stops him from doing it, the person shall be sentenced to continued imprisonment.

2– If the crime mentioned in the above paragraph is committed against one of the heads of organs of State or members of the Government or Parliament, the person committing the crime shall be sentenced to long imprisonment.

### **Article 208**

A person who invites the armed forces or people of Afghanistan to armed uprising against the State of Afghanistan shall be sentenced to death, provided that the uprising

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<sup>6</sup> Article 203 repealed by Decree No 1398 dated 1370/12/05 of the President of Afghanistan on Endorsement of the Legislative Decree of the Council of Ministers (Legislative Decree of the Council of Ministers of the Republic of Afghanistan No. 18 dated 1370/11/28 on Repeal of Article 203 of the Penal Code), published in Official Gazette No. 765 (No. 1 of 1371) dated 1992/04/06 (1371/01/17) at page 14. The original text of article 203 reads as follows:

*“Political associations which are not recognized officially by the State of Afghanistan but confront the State as in a state of war, are considered as foreign States.”*

takes place as a result of this invitation; otherwise, the person shall be sentenced to long imprisonment.

### **Article 209**

A person who, for commitment of crimes mentioned in articles 204, 205, and 208 of this Law, engages himself in oral or written propaganda among the people, shall be sentenced to medium imprisonment; in the light of the circumstances.

### **Article 210**

A person who instigates people to civil war against each other, in case of occurrence of bloodshed, shall be sentenced to continued imprisonment; and, if bloodshed does not occur, but disorder and looting is caused, the person shall be sentenced to long imprisonment of not more than 10 years, in the light of circumstances; in case the person's instigation proves ineffective, he shall be sentenced in the light of circumstances to medium imprisonment.

### **Article 210**

1– A person who with a criminal intention takes leadership of military division or group, fighter plane, military fort or garrison without the order of the State and without legal cause shall be sentenced to death.

2– A person who, in spite of issuance of the orders of State concerning dispensation with leadership, continues in his action, or if the commander or the military force after issuance of the State order for putting down arms keeps the soldiers under his command armed and assembled, he shall be sentenced to death.

### **Article 212**

1– A person who has the right to give orders and command members of the armed forces or police or gendarme and with criminal intentions orders them to delay implementation of the orders of the State, he shall be sentenced to long imprisonment.

2– If as a result of the crime mentioned in the above paragraph, State orders are actually delayed, the person committing the crime shall be sentenced to death or continued imprisonment, in the light of circumstances.

3– Subordinate officers who obey such orders shall be sentenced to long imprisonment, in the light of circumstances.

### **Article 213**

1– A person who takes up the leadership of a group of criminals or, one way or another, takes up such leadership with the intention to loot, extort and plunder land and properties of the State or that of a group of people, or resist against soldiers or security forces responsible for vanquishing such criminal groups, the person shall be sentenced to death.

2– A person who directs and manages such criminal groups mentioned in the above paragraph shall be sentenced to continued or long imprisonment, in the light of circumstances.

3– The rest of the members of the criminal group mentioned in the above paragraph shall be sentenced to long imprisonment, in the light of circumstances.

### **Article 214**

The following persons shall be sentenced to long imprisonment in the light of circumstances:

1– A person who provides arms or other military supplies for the criminal group mentioned in article 213 of this Law which may be used in crime, or in spite of his knowledge about the criminal intention of the group sends them food supplies.

2– A person who, in spite of his knowledge about the criminal quality and intention of the group, provides them with dwelling place or shelter or meeting place.

### **Article 215**

A person who is a member of the criminal group mentioned in article 213 and 214 of this Law but does not have any duty or leadership in the group and with the very first warning of the military or security forces immediately separates from the group shall not be punished as an accomplice, except if he has committed some other felony.

### **Article 216**

1– A person who by use of force tries to occupy Government buildings, institutions or other buildings which are built for the use of public, the person shall be sentenced to long imprisonment, in the light of circumstances.

2– If the crime mentioned in the above paragraph is committed by an armed group, the organizer, leader of the group or any other person who, one way or another, is in-charge or the group shall be sentenced to death.

### **Article 217**

1– A person who intentionally destroys buildings, public properties, specific properties of the departments and public institutions or societies which are legally established for the purpose of safeguarding public interests in such a way as to make it totally or partly incapable of exploitation, the person shall be sentenced to long or medium imprisonment, in the light of circumstances.

2– If the crime mentioned in the above paragraph is committed in a state of crisis (emergency) or with the intention of creating disorder or terror of fear among the population, the person committing it shall be sentenced to long imprisonment of not less than 10 years.

3– If as an effect of the crime mentioned in paragraph 1 of this article a person present in such buildings dies, the person committing the act shall be sentenced to death.

4– In all cases mentioned in this article, the criminal in addition to principal punishment is also sentenced to compensation of the costs of all article which have been demolished or destroyed.

### **Article 218**

A person who lowers or tears the flag of the Republic of Afghanistan with the intention to disgrace it shall be sentenced to long imprisonment.

### **Article 219**

A person who invites others into association in an act whose aim is to commit any of the crimes mentioned in articles 204, 205, 212, 214, 216, and 217 of this Law shall be sentenced to a medium imprisonment of not more than 2 years, provided his invitation to this end has not been accepted.

### **Article 220**

1– A person who is aware of the plan for commitment of crimes mentioned in articles 204, 205, 212, 213, 214, 216, and 217 of this Law and does not inform the concerned authorities shall be sentenced to medium imprisonment, in the light of circumstances.

2– The court can decide not to sentence the husband, wife, roots and branches of the criminal in the instances mentioned in the above paragraph, unless the law has stipulated otherwise.

### **Article 221**

1– A person who creates, establishes, organizes or administers an organization under the name of party, society, mission or group with the aim of disturbing or nullifying one of the basic and accepted national values in political, social, economic or cultural spheres of the State or makes propaganda for its extension or attraction to it, by whatever means it be, the person shall be sentenced to a long imprisonment of not more than 10 years, in the light of circumstances.

2– If the party, society, mission, or group mentioned in the above paragraph, resorts to use of force or terrorism or other prohibited means to secure its objectives, the person committing it shall be sentenced to continued imprisonment.

3– Provisions of paragraphs 1 and 2 of this article shall also apply to any foreigner residing in Afghanistan and any Afghan residing abroad, who creates, establishes, administers or organizes the organizations mentioned in the above paragraphs or a branch of such organization in Afghanistan, even if its headquarters are outside Afghanistan.

4– A person who joins one of the organizations mentioned in paragraph 1 of this article or one of its branches shall be sentenced to the same punishment anticipated in paragraph 1 of this article.

5– A person who for the purpose of achieving illegal objectives establishes relations, himself or through someone else, with the organization mentioned in paragraph 1 of this article or one of its branches, or encourages other to join it, the person shall be sentenced to medium imprisonment, in the light of circumstances.

### **Article 222**

A person who has in his possession or sells or offers for sale, himself or through someone else, printed matter, writings or publications which have been prepared for the attainment and extension of the objectives of organizations mentioned in article 221 of this Law or one of its branches and for the information of others, the person shall be sentenced to medium imprisonment, in the light of circumstances.

### **Article 223**

A person who has in his possession, even if temporarily, any of the means of printing, registration publications or advertisement for the purpose of printing, registering, publishing and disseminating declarations, resolutions, nocturnal statements, songs, treatises or propaganda of the organizations mentioned in article 211 of this Law or one of its branches for the purpose of attainment and extension of the objectives noted in paragraph 1 of article 221, the person shall be sentenced to medium imprisonment, in the light of circumstances.

### **Article 224**

1– A person who, without the permission of competent authorities, creates, establishes, administers or organizes a non-political society, mission or group which has an international character, the person shall be sentenced to a prison term of not more than 2 years.

2– If the creation, establishment, administration or organization of establishments mentioned in the above paragraph is based on forged permit, the person committing it shall be sentenced to double the punishment anticipated in the said paragraph.

### **Article 225**

1– A person who, himself or through someone else, receive money or any other kind of material profit or assistance from domestic or foreign sources for the purpose of committing the crimes mentioned in articles 221, 222, 223, or 224 of this Law, in the light of circumstances he shall be sentenced to a long imprisonment of not less than 10 years.

2– A person who, through monetary or material assistance, causes the encouragement of others to commit the crimes mentioned in articles 221, 222, 223, or 224 of this Law, even if he has no intention of participation in committing it, shall be sentenced to half of the anticipated punishment of the above paragraph.

### **Article 226**

In all cases mentioned in articles 221, 222, or 223 of this Law, the court shall order the dissolution of organizations and its branches and the closure of its headquarters, offices and agencies.

### **Article 227**

1– In all cases mentioned in articles 221 through 226 of this Law, the court orders the confiscation of estate, documents, papers and other things used in the commitment of crime.

2– The court also orders the confiscation of other goods and articles which are apparently part of the estate of the convict and reason, documents or circumstances prove it that use has actually been made of such estate for the enhancement of the objectives of organizations mentioned in paragraph 1 of article 221 of this Law or one of its subsidiaries.

### **Article 228**

A person who is enrolled in one of the organizations mentioned under paragraph 1 of article 221 of this Law or one of its subsidiaries but is completely been unaware of

its intention of defiance, sabotage or plot and does not take part in any of its activities or has actually separated himself from it, shall be exempted from punishment for the crimes committed by the organization or one of its subsidiary organs, unless the law has stipulated otherwise.

### **Article 229**

1– A person who creates a secret society other than that mentioned in the above articles or undertakes its administration or that of one of its major centers, shall be sentenced to medium imprisonment.

2– Each member of the society shall be sentenced to imprisonment of not more than 1 year or cash punishment of not more than 12,000 Afghanis.

3– Any society which undertakes all or part of its activities secretly or its objectives are contrary to the law or hides its purpose from concerned authorities through false or incomplete statements or hides its constitution, means of activity, names of members or duties or the subject of its meetings, shall be considered a secret society.

### **Article 230**

If five or more persons get together in a public place for the purpose of disrupting the security and are ordered to dispersion by the security authorities anyone of them who refrains after having received the order shall be sentenced in the light of circumstances to short imprisonment or cash fine of not more than 12,000 Afghanis, unless the law has stipulated otherwise.

### **Article 231**

1– Anyone who invites people to gathering in a public place or administers one or attends one, in spite of being aware of its prohibition by security authorities, shall be sentenced to short imprisonment on cash fine of not more than 12,000 Afghanis.

2– Anyone instigating such gathering through one of the mass media shall be sentenced to the same punishment.

### **Article 232**

1– If the aim of the gathering is the commitment of a felony or misdemeanor or hindering the enforcement of law or regulations or influencing the actions of competent authorities or depriving a person of freedom of action, and if this influencing and hindering are accompanied by force and threat, the inviting party, administrator and any person who, while aware of the aim of the gathering, take part in it or does not leave it after becoming aware of its objectives, shall be sentenced to imprisonment of not more than 2 years or cash fine of not more than 24,000 Afghanis.

2– If one of the participants of a gathering resort to force or threat, or if one of them should be carrying an apparent weapon or other criminal implement which may result in murder, the inviting party, administrator and any other person who has taken part in the gathering while aware of the objective of the gathering, shall be sentenced in the light of circumstances to medium imprisonment.

3– If one of the participants of a gathering commit a crime for the purpose of achievement of the object of the said gathering, all participants present at the time of commitment of the crime shall be sentenced to the punishment anticipated in the law for that crime, provided they have been cognizant or the objectives of the gathering;



the inviting part and administrator of the gathering shall be sentenced to the anticipated punishment, even if not present in the gathering at the time of commitment of crime.

4- Provision of this article shall not hinder application of more severe punishment which maybe anticipated in the law

### **Article 233**

1- A person who invites or instigates people to discrimination of factionalism (religious, tribal, or linguistic) shall be sentenced in the light of circumstances to imprisonment of not more than 2 years.

2- If the invitation or instigation mentioned in the above paragraph produces the result, or is accompanied by force or threat, the person committing it shall be sentenced to long imprisonment of not more than 7 years.

### **Article 234**

1- A person who instigates or encourages one or more persons by direct statement, act, or allusion or by means of writing, painting, picture, sing, or other open display or audio-visual means, to commit felony or misdemeanor shall be considered an accomplice and shall be sentenced to the same anticipated punishment for the crime which is the subject of instigation or encouragement; provided, however, that the said felony or misdemeanor has actually been committed as a result of his instigation or encouragement.

2- If the instigation or encouragement mentioned in the above paragraph should cause initiation of the crime only, the instigator or encourager shall be sentenced to the punishment of initiating the crime.

### **Article 235**

A person who directly instigates or encourages, others to commit murder, plunder, arson, or crimes of disturbing the security, in case his instigation or encouragement does not produce the result, he shall be sentenced in the light of circumstances to imprisonment of not more than 2 years or cash fine of not more than 24,000 Afghanis.

### **Article 236**

1- A person who distributes or supplies or possesses, for the purpose of trade or hire, publication, writings, paintings, slides, statues, engraved pictures, code signs or other articles and pictures, **which are in condradiction with culture and public ethics,** shall be sentenced in the light of circumstances to imprisonment of not more than 2 years or cash fine of not more than 24,000 Afghanis.

2- A person who intentionally himself or through someone else exports or imports or transports the articles mentioned in the above paragraph for the purpose of moral corruption or those mentioned in the above paragraph, or places then show in public or hires them so sells them or puts them on sale, even if not publicly, or gives to someone else secretly or openly, even if freely, or distributes them or gives to someone else for distribution shall be sentenced tin the light of circumstances to imprisonment of not more than 2 years or cash fine of not more than 12,000 Afghanis.

3- A person who, by open means, makes speeches or sings songs which are contrary to public manners or invites people to moral corruption and delinquency or

propagates advertisements or articles for this purpose shall be sentenced to the same punishment of paragraph 2 of this article.

4– In case of repetition of crimes mentioned in the above paragraphs, the person committing the crime shall be sentenced to maximum anticipated punishment.

### **Article 237**

1– If the crimes mentioned in article 236 of this Law are committed through dailies or periodical, the editor-in-chief and the writer shall be sentenced to the anticipated punishment as principal doers at the instant of publication.

2– In all cases mentioned in article 236 of this Law, if the actual doer of the crime cannot be identified, the publisher, distributor, and supplier shall be punished as principal doers.

3– The court can sentence the importer or exporter or broker, too, as principal doers, provided that their intentional part in the crimes mentioned in article 236 of this Law, which have been committed through dailies or periodicals, are proven.

### **Article 238**

In cases where the writings, paintings, pictures, charts, codes or other means of display used in crimes mentioned in articles 221, 222, 227, 230, 234, 236, [and] 237 of this Law have been published abroad and should identification of the principal wrongdoer be impossible, the importer and publisher shall be sentenced as principal criminals. Should identification of importer and publisher prove impossible, the seller, distributor and/or the person posting it shall be punished as the principal doers, unless it becomes evident from the circumstances of the case that the person has not been aware of the criminal quality of the contents of writing, painting, picture, code or other means of display.

### **Article 239 [Unsuccessful invitation to riot, etc. by ‘public’ means]**

A person who invites people to riot, disturbance, mutiny or rebellion, by one of the “public” means, shall be sentenced to an imprisonment of not more that 2 years, provided that his invitation does not prove effective.

### **Article 240**

1– A person who deliberately publishes or propagates, by any means, news, information, false statements, biased or inciting propaganda for the purpose of disturbing the security and creating terrors and fear among the people or harming public interests and goods shall be sentenced in the light of circumstances to imprisonment of not more than 2 years or cash fine of not more than 24,000 Afghanis.

2– A person who himself or through someone else keep in his possession printed materials, publications or writings ready for distribution and information of others for the purpose of committing the crimes mentioned in the above paragraph, or brings in his possession any of the said means of printing, recording or advertising, even if temporarily, in addition to confiscation of the said means, shall be sentenced in view of the circumstances to imprisonment of not more than 2 years or cash fine of not more than 24,000 Afghanis.

### **Article 241**

A person who, by one the “public” means insults the Afghan nation, flag, or symbol of the State of Afghanistan, shall be sentenced in the light of circumstances to medium imprisonment.

### **Article 242 [Insulting the President]**

1– A person who insults the President by one of the “public” means shall be sentenced to medium imprisonment.

2– If the above crime is committed in the presence of the president the person shall be sentenced to long imprisonment.

### **Article 243**

The following persons shall be sentenced in view of circumstances to short imprisonment or cash fine of not more than 12,000 Afghanis:

1– A person who insult, by one of the “public” means, the heads of foreign States.

2– A person who insults, by one the “public” means, the official representatives of foreign States in Afghanistan in connection with their duties.

### **Article 244**

A person who, by one of the “public” means, encourages others not to comply with the law or praises an act which is considered crime by the law, shall be sentenced to short imprisonment of not less than 3 months and cash fine of not less than 3,000 and not more than 12,000 Afghanis, or one of these two punishments.

### **Article 245**

A person who, by one of the “public” means, encourages intra and inter tribal feuds shall be sentenced to short imprisonment of not less than 3 months or cash fine of not less than 3,000 and not more the 12,000 Afghanis.

### **Article 246**

A person who, by one of the “public” means, insults the Grand Assembly (*Loya Jirga*), Parliament, Government, armed forces, courts, or other State authorities, shall be sentenced to short imprisonment of not less than 3 months and cash fine of not less than 3,000 and not more than 12,000 Afghanis, or one of these two punishments.

### **Article 247**

A person who, by one the “public” means, published the deliberations of open or secret sessions of the Parliament with a breach of confidence and ill-will shall be sentenced to short imprisonment of not less than 3 months or cash fine of not less than 3,000 and not more than 12,000 Afghanis.

### **Article 248**

A person who, by one of the “public” means, insults an official of public services in connection with his performance of duty shall be sentenced to short imprisonment of not less than 3 months and not more than 6 months and cash fine of not less than 3,000 and not more than 6,000 Afghanis or one of these punishments.

### **Article 249**

A person who, by one of the “public” means, interferes with the position, prestige and/or authority of the judge in his dealing with cases, shall be sentenced to short imprisonment of not less than 3 months and not more than 6 months or cash fine of not less than 3,000 and not more than 6,000 Afghanis.

### **Article 250**

1– A person who, by one of the “public” means, publishes matters which may have an effect on the judges who are considering a certain case or have an effect on officials of judicial administration or witnesses who are called upon to testify in one certain case or have an effect on public opinion in or against the interest of one of the parties at the time of investigation or dealing with a case, shall be sentenced to short imprisonment of not less than 3 months and cash fine of not less than 3,000 and not more than 12,000 Afghanis, or one of these two punishments.

2– If publication of matter mentioned in the above paragraph is deliberately undertaken for the purpose of creating the effect, the person shall be sentenced to medium imprisonment of not more than 2 years and cash fine of not less than 12,000 Afghanis and not more than 24,000 Afghanis, or one of these two punishments.

### **Article 251**

The following person shall be sentenced to short imprisonment of not less than 3 months and cash fine of not less than 3,000 and not more than 12,000 Afghanis, or one of these two punishments.

1– A person who, by one of the “public” means, publishes the proceedings of a civil or criminal suit which has been declared secret by the court.

2– A person who by one of the “public” means publishes all or part of the judicial actions whose publication have been prohibited by a judicial decision of the court for the purpose of maintaining public order and manner.

3– A person who, by one of the “public” means, publishes the proceedings of secret sessions of the courts or the proceedings or its open sessions with a breach of trust and ill-will.

### **Article 252**

A person who, by one of the “public” means publishes a news about the investigation of a crime which is undertaken by assigned officials in the absences of the antagonists or have prohibited its publication for the purpose of maintaining public order or manner or for the purpose of finding the truth, shall be sentenced to short imprisonment of not less than 3 months and not more than 6 months and cash fine of not less than 3,000 Afghanis and not more than 6,000 Afghanis, or one of these two punishments.

### **Article 253**

A person who, by one of the “public” means, opens a donation collection office to pay for the cash fine or costs or bails of the convict, or makes advertisements to this end, shall be sentenced to short imprisonment of not less than 3 months and cash fine of not less than 3,000 and not more than 12,000 Afghanis, or one of these two punishments

## Chapter 3 – Bribery \*

### Article 254

Any official of public services, who for the purpose of performance of or abstention from or disruption of a duty which is assigned to him, requests in his own or someone else's name any money, good or other benefit, or receives a promise of or accepts a gift, shall be considered as a bribe-taker.

### Article 255

1– The bribe-taker shall be sentenced to an imprisonment of not less than 2 years and not more than 10 years and cash fine of equivalent of what he has requested as bribe or has been given to him or he has been promised to receive.

2– The briber and the intermediary in bribery shall be sentenced to the same punishment mentioned in the above paragraph.

### Article 256

If the purpose of bribe is the commitment of a criminal act whose fixed punishment in the law is heavier than the punishment for bribery, the bribe-taker, briber and the intermediary in bribe shall be sentenced in addition to the cash fine anticipated for the bribe, to the same punishment anticipated for that crime, too.

### Article 257

A person who forces an official of public services through moral or material pressure to do an un-rightful work, or hinders the performance of his job obligations or disrupts it, shall be considered as briber and shall be sentenced to its fixed punishment.

### Article 258

If an official of public services requests something in return for performance of his duty, in his own or someone else's name, or receives or accepts from someone for whom he has done something in the line of duty, or for the purpose of receiving a gift disrupts any of his job obligations after the performance of a duty, or without advance agreement refuses to do something or disrupts it for the purpose of getting a reward, shall be sentenced to medium imprisonment and cash fine of equivalent of what has been requested, presented or promised.

### Article 259

If a member of Parliament, municipality, and provincial and local councils request something for himself or someone else or accepts a promise to this and or receives a gift and for this reason exerts his influence to obtain from the competent authorities or public services orders, decisions, instructions, promises, releases, agreements, imports, appointments, contracts and any other service and privileges, shall be considered as bribe-taker and shall be sentenced in accordance with the provisions of this Law.

### Article 260

If a person presents a bribe but the official of public services does not accept it, the briber shall be sentenced to medium imprisonment or cash fine of not less than 12,000 and not more than 60,000 Afghanis.

### **Article 261**

If the official of public services, being cognizant of the criminal quality of the act in accordance with the provisions of articles 254,258, and 259 of this Law, accepts through an intermediary an insignificant part of the gift or benefit shall be sentenced to imprisonment of not more than 1 year and cash fine of equivalent of what he has accepted or received.

### **Article 262**

In all case mentioned in this chapter, the confiscation of what has been presented by the briber or the intermediary in bribe shall be ordered.

### **Article 263**

If the bribe has resulted in the destruction or wastage of public property or annulment or concealment of a right or accomplishment of wrong, the person committing it shall be sentenced to the maximum punishment anticipated in article 254 of this Law.

### **Article 264**

If the person from whom a bribe has been demanded informs the competent authorities and it is proven as a result of the measure taken by the said authorities that the official of public services has done this, the bribe-taker shall be sentenced in accordance with the provisions of this Law and the informer shall be considered innocent.

### **Article 265**

If the person who has been offered a bribe informs the competent authorities before taking the bribe and, as a result, the briber is caught red handed (the letter) shall be sentenced in accordance with the provisions of this Law.

### **Article 266**

Initiation of the crime of bribery in considered as its commitment.

### **Article 267**

The final decision of the court regarding the conviction of a person for bribery shall be published.

## **Chapter 4 – Embezzlement and Treachery**

### **Article 268**

1– Any official of public services, to whom the goods of State or persons have been given in the line of his duty, and he embezzles it or hides it shall be sentenced to long imprisonment of not more than 10 years.

2– If the crime mentioned in the above paragraph is committed by treasurer, storekeeper, collection officer, cashier, petrol official, sugar official, person in-charge of go down, cash or material trustee and officials of food department, or other persons assigned to preserve embezzled or hidden goods, the person committing it shall be sentenced to long imprisonment.

3– An official of public services who has been sentenced to debarment from his profession or separation from service, shall be accepted anew in employment or Government service after restoration of honor in accordance with the provisions of the Criminal Procedure Code.

#### **Article 269**

Any one of public services who turns into his own proprietorship State money, priced documents, goods or other articles, shall be sentenced to medium imprisonment.

#### **Article 270**

1– Any official of public services who has the duty in contract, act or case to protect State interests and totally damages the said interest for the purpose of gaining a benefit for himself or someone else, shall be sentenced to long imprisonment of not more than 10 years.

2– If the damage mentioned in the above paragraph is insignificant, the person committing the crime shall be sentenced in the light of circumstances to medium or short imprisonment.

#### **Article 271**

Any official of public services who has a direct obligation in the administration of contracts, revenues, imports or other matters of the State, or the supervision thereof, and as a result of it gains in the above matter a profit in his own or someone else's name, or tries to gain it, shall be sentenced to medium imprisonment of not less than 3 years.

#### **Article 272**

Any official of public services who employs for his personal business during official time the work of his subordinate worker or contract employees (*ajeer*), or without lawful reasons deducts all or part of their wages, shall be sentenced to short imprisonment or cash fine of not more than 12,000 Afghanis.

#### **Article 273**

1– The criminal, in addition to the punishments fixed in this chapter, shall also be ordered to return the goods and to pay a cash fine equivalent to the embezzled goods or whatever he has taken into his possession from the State property.

2– If the duration of imprisonment of the convict is more than 3 years, the convict shall be sentenced to debarment from his profession or separation from duty, too.

#### **Article 274**

The period of dropping of penal claim in crimes mentioned in this chapter shall start from the date of the end of duty, provided that investigation into it has not started prior to that.

## **Chapter 5 – Misbehavior of Officials of Public Services Before Individual**

### **Article 275**

1– If an official of public services tortures the accused for the purpose of obtaining a confession or issues an order to this effect, he shall be sentenced to long imprisonment.

2– If the accused dies as a result of torture, the person committing it shall be sentenced to the punishment of intentional murder as anticipated in this Code.

### **Article 276**

If the official of public services punishes the convict more than what he has been sentenced to, or issues an order to this effect, or applies to him a punishment to which he has not been sentenced in addition to medium imprisonment, he shall be sentenced to debarment from profession or separation from duty, too.

### **Article 277**

If the official of public services, making use of his official authority, enters the house of any person without his permission and in cases other than that stipulated in the law, he shall be sentenced to imprisonment of not more than 2 years or cash fine of not more than 24,000 Afghanis.

### **Article 278**

If the official of public services, making use of his official authority, treats any person so rudely and coarsely as to cause him physical pain, or contrary to his honor and prestige, he shall be sentenced in view of the circumstances to imprisonment of not more than 2 years or cash of not more than 24,000 Afghanis.

### **Article 279**

If the official of public services, making use of his official authority, forcefully buys a movable or immovable good from its owner, or without a right turns it into his own proprietorship or forces the owner to sell his good to someone else, he shall be sentenced, in addition to imprisonment of not more than 2 years and cash fine of not more than 24,000 Afghanis, to debarment from his profession or separation from duty and the return of the good acquired by force, or its price if the good is no longer available.

## **Chapter 6 – Theft and Destruction of Official Papers and Documents**

### **Article 280**

1– If due to negligence of the official of public services, who is assigned to keep documents and/or dossiers of the State or judicial claims papers, the said papers are stolen, concealed or destroyed, the assignee shall be sentenced to short imprisonment of not less than 3 months or cash fine of not more than 12,000 Afghanis.

2– The thief, concealer, or destroyer of the articles mentioned in the above paragraph shall be sentenced to medium imprisonment.

3– If the doer is the person assigned to keep the articles noted in paragraph 1 of this article, he shall be sentenced to long imprisonment of not more than 10 years.



4– If the theft, concealment or destruction of articles noted in paragraph 1 of this article takes place by compulsion of its attendants, the person committing it shall be sentenced to long imprisonment.

5– The thief, concealer or destroyer of documents with national value shall be sentenced to the maximum of long imprisonment.

6– If theft or destruction of documents mentioned in paragraph 5 of this article takes place as a result of the negligence of the official of public services, the person committing it shall be sentenced to medium imprisonment.

### **Article 281**

If the official of post and telegraph hides, discloses or opens a letter or telegraph delivered to him, or provides others with facilities to this end, he shall be sentenced, in addition to debarment from the profession or separation from service, to short imprisonment of not less than 3 months or cash fine of not less than 3,000 and not more than 12,000 Afghanis.

## **Chapter 7 – Enforcement of Officials of Public Services from the Limits of Lawful Authority**

### **Article 282**

If an official of public services approaches the judge with an order, entreaty, request or recommendation for the purpose of benefiting or harming one of the parties to a suit, the official shall be sentenced to short imprisonment of not less than 3 months or cash fine of not less than 3,000 and not more than 12,000 Afghanis.

### **Article 283**

If the judge refuses to issue a verdict and decision without a legal ground, or if it is proven that due to one of the reasons mentioned in article 282 of this Law has issued an unlawful decision, he shall be sentenced in the light of circumstances to medium imprisonment and debarment from the profession.

### **Article 284**

If the judge, after a legal demand, stops or refuses the issuance or verdict, it shall be considered an abstention, even if he argues on the grounds of non-availability of legal provision, or its clarity, unless the law has stipulated otherwise.

### **Article 285**

1– If the official of public services, making use of his official authority, deliberately and without legal grounds stops the implementation of provisions of laws, regulations, verdict and decision of the court, or orders issued by competent authorities of the Government, and/or collection of goods and taxes stipulated by the law, the official shall be sentenced in the light of circumstances to short imprisonment of not less than 3 months or cash fine of not less than 3,000 and not more than 12,000 Afghanis.

2– If as a result of stoppage mentioned in the above paragraph the execution of State plans are delayed or interrupted or a loss is inflicted upon public property, the offender shall be sentenced in the light of circumstances to long or medium imprisonment.

### **Article 286**

1– If at least three officials of public services leave their duty, even if through resignation, for the purpose of achieving a common unlawful aim, or deliberately refuse to perform their duties, each shall be sentenced to short imprisonment of not less than 3 months and not more than 6 months or cash fine of not less than 3,000 and not more than 6,000 Afghanis.

2– If the abandonment of duty or refusal to perform duty endangers life, health and public security, or disturbance and chaos is created among the people, and/or harm is done to public interests, the offenders shall be sentenced to the double of the maximum punishment mentioned in the above paragraph.

### **Article 287**

1– If an official of public services leaves his work in the course of duty for the purpose of disrupting or delaying the work, or to this end abstains from performance of duty, the official shall be sentenced to short imprisonment of not less than 3 months or cash fine of not less than 3,000 and not more than 12,000 Afghanis.

2– Should the provision of paragraph 2 of article 286 of this Law apply to the official mentioned in the above paragraph the offender shall be sentenced to the double of the maximum punishment mentioned in paragraph 1 of this article.

### **Article 288**

1– If a person takes part in the commitment of one of the crimes mentioned in articles 286 and 287 of this Law in way of instigation, the person shall be sentenced in the light of circumstances to the double of the punishments anticipated in the mentioned articles.

2– Should the person mentioned in the above paragraph be an official of public services, in addition to the anticipated punishment, he shall also be sentenced to debarment from profession or separation from duty.

### **Article 289**

1– If a person instigates or incites one or several officials of public services, one way or another, to leave their work or abstain from performance of one of their job obligations, and his instigation or encouragement does not produce any result, the person shall be sentenced to imprisonment of up to 3 months or cash fine of up to 3,000 Afghanis.

2– If the instigator is an official of public services, he shall be sentenced to the double of the punishment mentioned in the above paragraph.

## **Chapter 8 – Transgression Against Officials of Public Services**

### **Article 290**

If a person transgresses against an official of public services with force, brutality, throat or extortion, or initiates transgression, the person shall be sentenced to short imprisonment of not less than 6 months or cash fine of not less than 6,000 and more than 12,000 Afghanis or both of these punishments.

### **Article 291**

1– If a person, with the aim of threatening or stopping from performance of duty, trespass against an official of public services through continuous chase, lingering on near his house or place of work, or any other way, the person shall be sentenced to the same punishment anticipated in article 290 of this Law.

2– If the offender is an official of public services, in addition to the punishment mentioned in the above paragraph, he shall also be sentenced to debarment from profession or separation from service.

### **Article 292**

If the assault or resistance of the person against the official of public services results in beating or wound, the offender shall be sentenced in the light of circumstances to medium imprisonment or cash fine of not more than 60,000 Afghanis.

### **Article 293**

1– If as a result of the beating or wound mentioned in article 292 of this Law the person against whom the crime is committed becomes temporarily handicapped or remains unable to work for more than 20 days, the offender shall be sentenced, in addition to compensation for the damage, to medium imprisonment of not less than 2 years.

2– If the beating or wound results in permanent disability, or the beating or wounding is accompanied by a previous plan or with carrying of weapon, or is done by more than one person, the offender shall be sentenced to the punishment anticipated in articles 408 to 413 of this Law.

### **Article 294**

If a person insults the officials of public services during his discharge of duties, or because of it, by allusion, word or threat, the person shall be sentenced to short imprisonment of not less than 3 months and not more than 6 months or cash fine of not less than 3,000 and not more than 6,000 Afghanis.

### **Article 295**

If the insult is done by telegraph, telephone, writing or painting, the offender shall be sentenced to the punishment mentioned in paragraph 1 of article 294 of this Law.

### **Article 296**

If a person causes fear and anxiety to authorities or officials of public services through false information or untrue petitions concerning the incidence or accidents or catastrophes which are not true, or by any other means, being cognizant of its unreality, the person shall be sentenced, in addition to short imprisonment of not less than 3 months or cash fine of not less than 3,000 and not more than 12,000 Afghanis, to compensation of the damage done thereby.

## **Chapter 9 – Plagiarism of Functions and Titles**

### **Article 297**

If a person who, without official permission of the State or without being given the assignment, interferes in one of the public services, or discharges any of the

obligations of such services, shall be sentenced in the light of circumstances to medium imprisonment or cash fine of not less than 12,000 and nor more than 60,000 Afghanis.

#### **Article 298**

A person who, without having the rank and right, uses a military uniform in “public” or, without legal grounds, carries a distinctive sign of duty shall be sentenced in the light of circumstances to imprisonment of not more than 2 years or cash fine of not more than 24,000 Afghanis.

#### **Article 299**

If a person, without legal grounds, endows himself with honorary or occupational title or introduces himself as an official of judicial administration, or “publicly” decorates himself with a medal which has not been given to him, the person shall be sentenced to cash fine of one to 5,000 Afghanis.

#### **Article 300**

If a person, without legal grounds, endows himself with a foreign honorary of occupational title, or without legal ground or permission of the Head of State “publicly” decorates himself with a foreign medal, the person shall be sentenced to the same punishment of article 299 of this Law.

#### **Article 301**

In cases mentioned in articles 299 and 300 of this Law, the court can publish, the cost being borne by the convict, the summary of the verdict in a daily paper designated by the court.

### **Chapter 10 – Counterfeit of Currency**

#### **Article 302**

1– If a person makes the counterfeit of Afghanistan’s currency, in whatever way it may be, he shall be sentenced to long imprisonment.

2– Imitation of currency, decreasing the original amount of coins or variegation of coins, such as to make them look like a more expensive currency, are considered counterfeits.

#### **Article 303**

The following persons shall be sentenced to long imprisonment:

1– A person who, cognizant of the fact, works for the extension of or deals in counterfeit, or for the purpose of its extension or transaction possesses it.

2– A person who, cognizant of the fact, brings himself or through someone else, counterfeit money into Afghanistan or takes it out.

3– A person who makes tools and equipments for the purpose of making counterfeit, or uses such things or sells it or offers for sale or rents or brings it into his possession without any legal reason.

### **Article 304**

If as a result of commitment of the crimes mentioned in articles 302 and 303 of this Law the value of Afghanistan's money or State bonds down or domestic and/or foreign markets' confidence is shaken the court can sentence the offender to continued imprisonment.

### **Article 305**

If the crimes mentioned in articles 302 and 303 of this Law are committed against any money not mentioned in these two articles, the offender shall be sentenced to long imprisonment of not more than 10 years.

### **Article 306**

A person who has accepted counterfeit money in good faith and after learning that it is counterfeit tries to circulate it shall be sentenced to a cash fine of the double of the face value of the counterfeit.

### **Article 307**

Any criminal who, before putting into circulation and before the start of investigation, informs the competent authorities of his crime shall be exempted from the punishment of articles 303, 304 and 305 of this Law.

### **Article 308**

The court can exempt the criminal from punishment after the start of investigation, provided that his information enables competent authorities of the State to arrest other offenders involved in the or similar crimes.

## **Chapter 11 – Forgery**

### **Article 309**

Forgery is the making or writings, document, signatures and seals that are not real, or changing such things by addition, substitution, imitation or omission.

### **Article 310**

1– A person who forges one of the following items, or being aware of their forgery, uses them or brings them into Afghanistan, shall be sentenced in the light of circumstances to long imprisonment:

1– Law, presidential decree, decision of the Government and/or Prime Ministry's decree or the final decision of the court.

2– State seal, seal or signature of the head of State.

2– A person who makes one of the following items with the aim of forgery or, being aware of their forgery, uses them or brings them into Afghanistan, shall be sentenced in the light of circumstances to medium imprisonment:

1– Seal, stamp or the symbol of one the Government departments of enterprises.

2– Seal, stamp or the symbol of one of the officials of public services.

3– The official sign for designating the fineness of gold and silver.

4– Payroll or draft documents of State treasuries.

5– Financial papers of bank whose issuance is permissible.

6– Degrees and educational documents, both domestic and foreign.

### **Article 311**

In cases mentioned in article 310 of this Law, the criminal who informs the competent authorities of the State before the start of investigation of his crime shall be exempted from punishment.

### **Article 312**

The court can exempt from punishment the criminal mentioned in article 311 of this Law after the start of investigation if his information enables the State authorities to arrest others criminals involved in same or similar crimes.

### **Article 313**

1– If an official of public services in the discharge of duty deliberately forges orders, decisions, documents, office register books and other official correspondence, the official shall be sentenced in the light of circumstances to long imprisonment.

2– If the forgery mentioned in the above paragraph involves unofficial documents, the offender shall be sentenced in the light of circumstances to medium or short imprisonment.

### **Article 314 [AMENDED]<sup>7</sup>**

Whenever the person who commits crimes mentioned in article 313 of this Law is not a **civil servant**, in accordance with the circumstances, he/she shall be sentenced to short or medium imprisonment.

### **Article 315**

Any official of public services who for the purpose of forgery changes the content or form of documents while writing in line with his duty, whether this change is in the confession of a person for whom the documents is being written or registers a forged indictment, being aware of its forgery, as a true incident, the official shall be sentenced to long imprisonment in the light of circumstances.

### **Article 316 [AMENDED]<sup>8</sup>**

1– The person who knowingly use forged documents listed paragraph 1 of article 313 and forged documents mentioned in articles 314 and 315 of this Law, in accordance with the circumstances, he/she shall be sentenced to medium or long-term imprisonment.

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<sup>7</sup>Article314amended by Annex No. 1 to the Penal Code, published in Official Gazette No. 391 (No. 22 of 1356), dated 1978/02/19 (1356/11/30). The original text of article 314 reads as follows:

*“If the perpetrator mentioned in article 313 is not an official of public services, in view of the circumstances, he shall be sentenced to long imprisonment of not more than 10 years.”*

<sup>8</sup>Article316amended by Annex No. 1 to the Penal Code, published in Official Gazette No. 391 (No. 22 of 1356), dated 1978/02/19 (1356/11/30). The original text of article 316 reads as follows:

*“A person who uses the forged papers mentioned in articles 313, 314 and 315 of this Law, while cognizant of their forgery, shall be sentenced in view of the circumstances to long imprisonment of not more than 10 years.”*

2– The person who knowingly use forged documents of paragraph 2 of article 313 of this Law, in accordance with circumstances, shall be sentenced to short or medium imprisonment."

### **Article 317**

A person who forges the writing of someone else, or being cognizant of its forgery uses the forged paper, shall be sentenced in the light of circumstances to medium imprisonment.

### **Article 318**

A person who wrongly obtains the real stamp or seal of one of the departments or enterprises of the State and uses it against public or private interest shall be sentenced, in addition to compensation for the loss caused, to medium imprisonment.

### **Article 319 [AMENDED]<sup>9</sup>**

Doctor, surgeon or midwife-nurse who give to a person forged statements of certificates, being aware of their forgery, to persons in cases of birth, illness, disability, handicap or death, shall be sentenced in the light of circumstances to medium imprisonment or cash fine of not less than 12,000 and not more than 60,000 Afghanis.

### **Article 320**

A person who, himself or through someone else, forges the certificates of disability for himself or someone else, for the purpose of presenting it to the court to release himself or someone else from public services, in the name of a doctor or surgeon shall be sentenced in the light of circumstances to medium imprisonment or cash fine of not less than 12,000 and not more than 60,000 Afghanis.

### **Article 321 [AMENDED]<sup>10</sup>**

The person who knowingly use the forged certificate listed in articles 319 and 320 of this Law as that present it to court or one of the authorized officials of the Government, he/she shall be punished by the same penalty prescribed in the mentioned articles.

### **Article 322**

In the application of the provisions of this chapter, finger-print has the same credit as signature.

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<sup>9</sup>Article 319 amended by Annex No. 1 to the Penal Code, published in Official Gazette No. 391 (No. 22 of 1356), dated 1978/02/19 (1356/11/30), which provides, "Paragraph 2 of article 319 of the Penal Code shall be removed and the provisions set forth in paragraph 1 shall, with the removal of the mentioned paragraph, be recognized as the complete text of the mentioned article." The original text of paragraph 2 reads as follows:

*"2– If the crime mentioned in the above paragraph is committed because of asking something for himself or someone else or is in return for accepting or receiving a promise or gift, the offender shall be sentenced to medium imprisonment or cash fine of not less than 12,000 and not more than 60,000 Afghanis."*

<sup>10</sup>Article 321 amended by Annex No. 1 to the Penal Code, published in Official Gazette No. 391 (No. 22 of 1356), dated 1978/02/19 (1356/11/30). The original text of article 321 reads as follows:

*"A person who uses the forged certificate mentioned in articles 319 and 320 of this Law, such as to present it to a court or one of the competent authorities of the Government, being cognizant of its forgery, shall be sentenced to the same punishment anticipated in articles 319 and 320 or cash fine of not more than 5,000 Afghanis."*

## **Chapter 12 – Imitation of Signs and Printed Articles of Post, Telegraph, and Taxation**

### **Article 323**

The under noted persons shall be sentenced to short imprisonment of not more than 6 months or cash fine of not more than 6,000 Afghanis:

1– A person who imitates printed matters or postal, such as to similar in its apparent form to postal signs of post and telegraph offices of Afghanistan or that of the member States of the Universal Postal Union, and can be easily accepted as real.

2– A person who propagates the printed matters or samples mentioned in the above paragraph in Afghanistan or deals in them or sells them or offers them for sale or keeps with him for the purpose of propagation or dealing or selling.

### **Article 324**

The following person shall be sentenced to short imprisonment of not less than 3 months and not more than 6 months or cash fine of not less than 3,000 and not more than 6,000 Afghanis:

1– A person who imitates printed matters or samples which are similar in their apparent form with the signs of tax tickets of Afghan tax offices or the tickets of Afghan Red Crescent Society, such as to be easily acceptable instead of real papers.

2– A person who propagates the printed matters of samples mentioned in the above paragraph in Afghanistan or deals in them or sells them or offers them for sale or keeps with him for the purpose of propagating, dealing or selling.

3– If a profit is made as a result of commitment of the crimes mentioned in this chapter, the court shall order the return of its equivalent.

## **Chapter 13 – Suspension of Transportation**

### **Article 325**

A person who deliberately endangers the safety of public land, water and air transportation means or renders them idle, shall be sentenced to medium imprisonment.

### **Article 326**

If the commitment of the act mentioned in article 325 of this Law results in great injuries, the offender shall in the light of circumstances be sentenced to long imprisonment, and if it results in the death of a person or persons, the offender shall in the light of circumstances be sentenced to death or continued imprisonment.

### **Article 327**

A person who causes an accident as a result of carelessness which endangers a person or persons in a land, water or air means of transportation, shall be sentenced to short imprisonment of not less than 3 and not more than 6 months or cash fine of not less than 3,000 and not more than 6,000 Afghanis.



### **Article 328**

If the commitment of the act mentioned in article 327 of this Law results in serious bodily harm or death, the offender shall be sentenced to medium imprisonment of not less than 3 years.

### **Article 329**

A person who deliberately causes the disconnection of telephone or telegraph communications, the person shall, in addition to compensation for the loss, be sentenced to medium imprisonment of not less than 2 years.

### **Article 330**

If the disconnection of communications mentioned in article 329 of this Law takes place as a result of negligence and carelessness, the offender shall be sentenced in addition to compensation for the loss to short imprisonment of not less than 3 months or cash fine of not less than 3,000 and not more than 12,000 Afghanis.

### **Article 331**

1– A person who forcefully take possession of telephone line or other means of communication, or destroys it, or in some other manner renders it unusable, even if temporarily, or stops its repair by force and aversion such as to cause the disconnection of communication, the person be sentenced in addition to compensation for loss to long imprisonment of not less than 10 years.

2– If the crimes mentioned in the above paragraph are committed at time of emergency, the offender shall be sentenced in the light of circumstances to death or continued imprisonment.

### **Article 332**

A person who deliberately disturbs others through misuse of telephone communication means shall be sentenced to short imprisonment of not less than 3 months or cash fine of not less than 3,000 and not more than 12,000 Afghanis.

## **Chapter 14 – Escape of Prisoners and Hiding of Criminals**

### **Article 333**

1– A person who has been legally arrested and escapes shall be sentenced to short imprisonment of not less than 3 months and not more than 6 years or cash fine of not less than 3,000 and not more than 6,000 Afghanis.

2– If a person sentenced to imprisonment is arrested for the purpose of implementation of the court verdict and escapes after being arrested, the person shall be sentenced, in addition to the punishment to which he has already been sentenced, to an imprisonment of not more than 2 years and/or cash fine of not more than 24,000 Afghanis.

3– If the escape of the person in cases of paragraphs 1 and 2 of this article takes place as a result of use of force or some other crime, the person shall be sentenced to multiple punishments, unless otherwise stipulated in the law.

### **Article 334**

A person who is assigned to protect, accompany, or transport a detained and the detainee escapes by way of his neglect shall be sentenced as follows:

1– If the detainee has been sentenced for felony, to medium imprisonment of not more than 2 years or cash fine of not less than 12,000 and not more than 24,000 Afghanis.

2– In cases other than that mentioned in the above paragraph, the assignee shall be sentenced to short imprisonment of not less than 3 months and not more than 6 months or cash fine of not less than 3,000 and not more than 6,000 Afghanis.

### **Article 335**

A person who is assigned to protect, accompany or transport a detainee and assists the detainee in escape or facilitates his escape shall be sentenced as follows:

1– If the detainee has been sentenced to death, the assignee to long imprisonment in the light of circumstances.

2– If the detainee has been sentenced to punishment for “*Had*” or continued imprisonment or is accused of a crime whose punishment is death, the assignee to medium imprisonment in the light of circumstances.

3– In cases other than that mentioned in the above paragraphs, the assignee shall be sentenced to short imprisonment of not less than 3 months.

### **Article 336**

Any official of public services who is assigned to arrest a person and who hesitates in the detention of the accuse for the purpose of assisting him escape from justice shall be sentenced in accordance with the conditions mentioned in article 335 of this Law.

### **Article 337**

A person who, himself or through someone else, hides another person who has escaped after legal detention or is accused of a crime and his detention has been instructed, or knowingly assist the man to escape from justice, one way or another, shall be punished as follows:

1– If the person who has been given shelter or assistance has been given in his escape, hiding or evasion of justice is sentenced to death, the person shall be sentenced in the light of circumstances to long imprisonment of not more than 10 years.

2– If the person mentioned in the above paragraph is sentenced to the punishment for “*Had*” or continued imprisonment or long imprisonment or is accused of a crime whose punishment has been anticipated to be death, in the light of circumstances to medium imprisonment.

3– In cases other than that mentioned in the above paragraphs, to medium imprisonment of not more than 2 years or cash fine of not less than 12,000 and not more than 24,000 Afghanis.

### **Article 338**

If the hiding or assistance in hiding or escape from justice is rendered by the spouse or one of the root and branches of the person, the said persons shall not be punished.

### **Article 339**

1– A person who comes to know of the incidence of a crime, except petty offense, and one way or another assists the criminal to escape from justice, be it in the way of providing shelter or hiding the evidence of crime, or be it provision of wrong information about the crime, being aware of its untruthfulness, the person shall be sentenced to short imprisonment of not less than 3 months or cash fine of not less than 3,000 and not more than 12,000 Afghanis, provided that punishment does not exceed from half of the maximum of the punishment for the crime itself.

2– Provisions of the above paragraph do not apply to spouse, roots and branches of the person.

## **Chapter 15 – Breaking or Destroying the Seal**

### **Article 340**

If a place, papers or goods are sealed for the purpose of protection at the instruction of a State department or one of the court, and the seal is broken or destroyed due to negligence of the keeper, he shall be sentenced to short imprisonment of not less than 3 months and not more than 6 months or cash fine of not less than 3,000 and more than 6,000 Afghanis.

### **Article 341**

If the papers or goods concern a person who is accused of or has been convicted for felony, the keeper due to whose neglect the seal has been broken or destroyed shall be sentenced to short imprisonment of not less than 3 months and not more than 9 months or cash fine of not less than 3,000 and not more than 9,000 Afghanis.

### **Article 342**

1– A person who destroys or breaks the seal of articles mentioned in article 341 of this Law shall be sentenced to short imprisonment of not less than 3 months.

2– If the offender mentioned in the above paragraph is the keeper himself, he shall be sentenced in the light of circumstances to medium imprisonment.

### **Article 343**

1– If the seal of articles has been fixed for reasons other than its protection, the person destroying or breaking it shall be sentenced to short imprisonment of not less than 3 months and not more than 6 months or cash fine of not less than 3,000 and not more than 6,000 Afghanis.

2– If the offender in the crime mentioned in the above paragraph is the keeper himself, he shall be sentenced to short imprisonment of not less than 3 months and not more than 6 months.

## **Chapter 16 – Destruction of Public Buildings and Estates**

### **Article 344**

A person who deliberately destroys part of public building or estate or a building or estate allocated for the benefit of the State, public utility institutions or public use, or destroys historical radios, shall be sentenced, in addition to compensation for the loss,

in the light of circumstances to medium imprisonment or cash fine of not less than 12,000 and not more than 60,000 Afghanis.

### **Article 345**

A person who deliberately destroys or cuts the trees on the streets, or parks or public resorts, shall be sentenced in the light of circumstances to imprisonment of not more than 3 months and cash fine of not more than 5,000 Afghanis, in addition to compensation for the loss.

## **Chapter 17 – Trade in Forbidden Goods**

### **Article 346 [AMENDED]<sup>11</sup>**

To address crimes related to the import and export of a type of contraband covered by the Law on Prohibited Goods (Contrabands) and the perpetrator in accordance with the circumstances shall be punished with the prescribed penalty of the mentioned law.

## **Chapter 18 – Crimes Against Religions**

### **Article 347**

The following persons shall be sentenced to medium imprisonment and/or cash fine of not less than 12,000 and not more than 60,000 Afghanis.

1– A person who forcefully and with aversion disturbs or stops the conduct of religious rituals or rites of any religion;

2– A person who destroys or damages the permitted places of worship where religious rituals of one of the religions are conducted, or destroys or damages any other sign of symbols respectable to followers of any religion.

### **Article 348**

A person who attacks a follower of any of the religions, who performs his religions rituals “publicly” by word, act, writing, and other “public” means, shall be sentenced to short imprisonment of not less than 3 months and cash fine of not less than 3,000 and not more than 12,000 Afghanis.

## **Chapter 19 – Use of Alcohol and Narcotic Substances**

### **Article 349**

A person who uses alcoholic or narcotic substances shall be sentenced to imprisonment of 3 to 6 months or cash fine of 3,000 to 6,000 Afghanis or both punishments, unless otherwise stipulated in the law.

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<sup>11</sup>Article 346 amended by Annex No. 1 to the Penal Code, published in Official Gazette No. 391 (No. 22 of 1356), dated 1978/02/19 (1356/11/30), at pages 13–15. The original text of article 346 reads as follows:

*“If a person imports goods whose import to Afghanistan is forbidden or carries or transports such goods for the purpose of selling or offers them for sale or hide such things or initiates hiding of such goods, in addition to confiscation of the forbidden goods, the person shall be sentenced to short imprisonment of not less than 3 months and cash fine of the equivalent of the confiscated goods, unless the law has not stipulated otherwise.”*

### **Article 350**

A person who forces another person in spite of his unwillingness to use alcoholic or narcotic substances shall be sentenced to short imprisonment of not less than 3 months or cash fine of not less than 3,000 and not more than 12,000 Afghanis.

### **Article 351**

A person who designates a place for the use of alcoholic or narcotic substances shall be sentenced in the light of circumstances to short imprisonment. In addition to the said punishment, the court can order the confiscation of equipments and tools and other things related to the use of intoxicating substances.

### **Article 352**

1– A person seen in public route, place or resort in such a drunken state as to have lost his mind, or to cause trouble for others, shall be sentenced to short imprisonment of not less 3 months or cash fine of not less than 3,000 and not more than 12,000 Afghanis.

2– If the offender mentioned in the above paragraph repeats the said crime within 1 year of the issuance of the court order, he shall be sentenced to short imprisonment of not less than 6 months or cash fine of not less than 6,000 and not more than 12,000 Afghanis.

3– If it is proven to the court that the offender repeating the crime is addicted to the use of alcoholic or narcotic substances, the court can, instead of the punishment mentioned in paragraph 2 of this article, have the offender confined to bed in one of the relevant hospitals for a period of up to 1 year.

4– The court can, at the request of public attorney and certification of the hospital with respect to his sound health, release the offender prior to expiration of the period mentioned in paragraph 3 of this article.

## **Chapter 20 – Gambling**

### **Article 353**

1– A person who designates a place for gambling and prepares it for people's entrance and, likewise a person who in a public place or a place upon to public, or in a place or house prepared for this purpose arranges for gambling or engages himself in "*jais goori*" (to lend money at considerable) interest for the purpose of gambling), shall be sentenced to short imprisonment and cash fine of not more than 12,000 Afghanis, or to one of those two punishments.

2– A person caught in the mentioned places while gambling shall be sentenced to short imprisonment of not less than 3 months and cash fine of not less than 3,000 and not more than 12,000 Afghanis.

3– In addition to punishments mentioned under articles 1 and 2 of this article, the tools and equipments used for gambling shall also be confiscated.

## Chapter 21 – Abstention from Rendering Assistance

### Article 354

A person who, at the time of fire or some other big incident, refuses to assist without proper excuse and in spite of the request of the official of public services, shall be sentenced to short imprisonment of not more than 6 months and cash fine of not more than 6,000 Afghanis, or one of these two punishments.

### Article 355

A person who, at the order of the law or agreement, is considered obliged to protect a person disqualified on account of age or health or mental or psychological state, and refuses from discharging of his obligation without proper excuse, shall be sentenced to short imprisonment and cash fine of not more than 12,000 Afghanis or to one of these two punishments:

## Chapter 22 – Crimes Related to Childhood, Incapacity, Endangering Minors and the Feeble

[Article 356. Repealed, Official Gazette No. 952 (2008/1387)]<sup>12</sup>

### Article 357

1– A person who has been in charge of a child and after agreement or the order of the court does not surrender the child to another person, to whom the care of the child has been transferred, shall be sentenced to short imprisonment or cash fine of not less than 3,000 and more than 12,000 Afghanis, even if the person in-charge is one of parents or grand-parents of the child.

2– If one of the parents or grandparents take back his minor child or grandchild, himself or through someone else, from the person to whom the child's care has been delegated by court order, he shall be sentenced to the punishment mentioned in the above paragraph, even if the act is committed without aversion or deceit.

### Article 358

1– A person who himself or through someone else endangers the life of a person who has not completed the age of 15 or due to health, mental or psychological state is incapable of protecting himself, shall be sentenced to medium imprisonment of not more than 3 years of cash fine of not more than 36,000 Afghanis.

2– A person who leaves (releases) a child or feeble in an abandoned place shall be sentenced to medium imprisonment, even if the said crime is committed by one the parents or someone charges with the protection of the child.

3– If as a result of the crime mentioned in paragraph 2 of this article the child or feeble becomes handicapped or dies, and the person committing it does not intend it,

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<sup>12</sup> Articles 356 and 418–424 repealed by article 23 of the Law on the Campaign Against Kidnapping and Human Trafficking, published in Official Gazette No. 952, dated 2008/07/15 (1387/04/25). The original text of article 356 is as follows:

**“Article 356**

*“A person who takes away or hides a newborn baby from persons who have legal right over him, or changes him with another infant, or untruthfully relates him to someone other than his mother, shall be sentenced in the light of circumstances to medium imprisonment.”*

he shall be sentenced in the light of circumstances to the anticipated punishment of beating resulting in disability or death.

4– If the child or feeble is deliberately deprived of feeding or nursing required by his state and as a result of it his life is put in danger, the person committing it shall be sentenced to the punishment mentioned in paragraph 3 of this article.

### **Article 359**

1– If a person is ordered by the court to pay for the livelihood of his wife or one of his roots or branches or to some other persons in return for his protection of nursing (giving her milk to an infant), and in spite of his ability he refuses to make the payment for 1 month, the person shall be sentenced to short imprisonment and cash fine of not more than 5,000 Afghanis or to one of these two punishments.

2– In case of the crime mentioned in the above paragraph, the suit is undertaken the concerned person files a complaint.

3– The suit shall be discharged if the concerned person withdraws his complaint or payment by the other party of what is due from him; and, if the withdrawal or payment takes place after the pronouncement of the sentence, the application of punishment shall be stopped.

## **Chapter 23 – Fire and Explosion**

### **Article 360**

1– A person who deliberately causes fire in movable or immovable goods, even if his own property, such as to endanger the good and life of other people, shall be sentenced in the light of circumstances to long imprisonment.

2– If the act of person takes place in of the following places, the offender shall be sentenced to continued imprisonment:

1– Factory and depot of military requirements and its annexes:

2– Mine or petroleum or gas wells;

3– Fuel or inflammable materials or explosive materials storage;

4– Thermal power, water or nuclear stations;

5– Train stations, locomotives or wagons in which a person or persons are present, and/or airport, or airplane or ship or its ports;

6– Residential building and/or a crowded area;

7– A building housing one of the State departments, enterprises or public institutions.

3– If the purpose of the crime, mentioned in paragraph 2 of this article, is to prepare the grounds for commitment of felony or misdemeanor or to destroy its traces, or if the person stops firefighting equipment and facilities from functioning or if the fire results in permanent disability of persons, or if the fire is caused by the use of explosives, or if the fire causes death of human being, the person committing it shall be sentenced to death.

### **Article 361**

1– A person who causes fire in movable or immovable goods by mistake, and if it endangers the goods or life of people, he shall be sentenced to medium imprisonment and/or cash fine of not more than 60,000 Afghanis.

2– If the crime mentioned in the above paragraph results in the stoppage of general transportation and/or great loss is inflicted on goods, the person shall be sentenced to long imprisonment of not more than 7 years.

3– If the crime mentioned in paragraph 1 of this article results in death of human being, the person shall be sentenced to long imprisonment of not less than 10 years.

### **Article 362**

1– A person who, without the permission of competent authorities, produces or imports explosives or keeps it with himself, in addition to confiscation of the materials, shall be sentenced to long imprisonment of not more than 7 years.

2– Materials considered from the composition of explosives shall be determined in accordance with the decision of the Minister of Interior, which shall be published in the Official Gazette. Likewise, tools, equipment, and means used in the making of explosives, or its explosion, are also considered explosive materials.

### **Article 363**

1– A person who deliberately uses explosives materials endangering, thereby, the life of people shall be sentenced in the light of circumstances to long imprisonment.

2– If great loss is inflicted upon people as a result of materials mentioned in the above paragraph or if death of human being is resulted in, the person shall be sentenced to continued imprisonment.

### **Article 364**

1– A person who deliberately uses continued explosives and as a result of it people's goods are endangered shall be sentenced in the light of circumstances to long imprisonment of not more than 7 years.

2– If as result of the crime mentioned above great loss is inflicted upon the good of other people the person committing it shall be sentenced to the maximum of the punishment anticipated in the above paragraph.

### **Article 365**

A person who uses explosives in cases other than that mentioned in this chapter and for an illegal purpose shall be sentenced in the light of circumstances to long imprisonment of not more than 10 years.

### **Article 366**

A person who transports, or initiates the transportation of, explosives in a land, water or air transportation means, or in postal parcels and other means contrary to regulations, shall be sentenced to medium imprisonment of not more than 2 years and cash fine of not more than 25,000 Afghanis or to one of these two punishments.



## Chapter 24 – Crimes Related to Drowning, Utilities (*Marafeq*) and Public Health

### Article 367

1– A person who deliberately creates a flood, or initiates one, whereby the life or goods of people are endangered, shall be sentenced in the light of circumstances to long imprisonment.

2– If as result of commitment of the crime mentioned in the above paragraph human death takes place, the person committing the crime shall be sentenced to continued imprisonment of not less than 10 years.

3– If the said flood causes great material losses, the person committing the crime shall be sentenced to long imprisonment of not less than 10 years.

### Article 368

1– A person who creates a flood by mistake, which endangers the life or goods of people, shall be sentenced to medium imprisonment and cash fine of not more than 25,000 Afghanis or one of these two punishments.

2– If the said flood stops public utilities (*marafeq*) or great loss is inflicted upon public goods, the person committing it shall be sentenced to long imprisonment of not more than 7 years.

3– If the commitment of crime mentioned in paragraph 1 of this article results in the loss of human life, the person committing the crime shall be sentenced to long imprisonment of not more than 10 years.

### Article 369

1– A person who deliberately endangers the goods or life of people by putting poisonous, microbial or other harmful substances in the well, water reservoir or general storage place, shall be sentenced to continued imprisonment.

2– If commitment of the crimes mentioned in the above paragraph results in the loss of human life, the person committing it shall be sentenced to death.

3– A person who commits any of the crime mentioned in paragraph 1 of this article by mistake shall be sentenced to medium imprisonment and cash fine of not more than 25,000 Afghanis, or to one of these two punishments.

4– If commitment of the crime mentioned in paragraph 3 of this article results in the loss of human life, the person committing it shall be sentenced to long imprisonment of not more than 10 years.

### Article 370

A person who pollutes well or public storage or such other things, such as to diminish its utility, shall be sentenced to short imprisonment or cash fine of not more than 12,000 Afghanis.

### Article 371

1– A person who deliberately breaks or destroys equipment, pipes or special facilities of water, electricity, gas and other public utilities (*marafeq*), resulting in the

stoppage of public utilities (*marafeq*), shall be sentenced to medium imprisonment and cash fine of not more than 25,000 Afghanis, or to one of these two punishments.

2– A person who deliberately harms, destroys or puts out of work the fixed or transferable health establishments, or makes a part of it unusable, shall be sentenced to medium imprisonment of not less than 2 years.

3– A person who commits any of the crimes mentioned in paragraph 1 of this article by mistake shall be sentenced to short imprisonment and cash fine of not more than 5,000 Afghanis.

#### **Article 372**

1– A person who deliberately commits an act in cases other than that mentioned above which results in the propagation of a dangerous disease shall be sentenced to medium imprisonment of not more than 3 years.

2– If as a result of commitment of the act mentioned in the above paragraph loss of human life takes place, or permanent disability is caused, the person committing the act shall be sentenced in the light of circumstances to the punishment anticipated for the crime of permanent disability in this Law.

#### **Article 373**

1– A person who causes the propagation of a dangerous disease by mistake shall be sentenced to short imprisonment and cash fine of not less than 5,000 Afghanis.

2– If as a result of commitment of the act mentioned in the above paragraph loss of human life or permanent disability is caused, the offender shall be sentenced in the light of circumstances to the anticipated punishment for murder by mistakes or physical torture.

### **Chapter 25 – Misleading Justice (Judicial Machinery)**

#### **Article 374**

A person who for the purpose of misleading justice changes the condition of persons, places or materials or conceals the evidence of crime, or presents wrong information about the crime while being aware of its untruthfulness, shall be sentenced to short imprisonment of not less than 3 months or cash fine of not less than 3,000 and not more than 12,000 Afghanis.

#### **Article 375**

A person, who asked by officials of judicial administration or the court for his identity, presents his identity untruthfully shall be sentenced to medium imprisonment of not more than 3 years and cash fine of not more than 15,000 Afghanis, or to one of these two punishments.

#### **Article 376**

1– A person who, for the purpose of misleading the judicial machinery embezzles, conceals, or destroys the an object or a document presented to officers of law or court, shall be sentenced to short imprisonment of not less than 3 months and shall be fined an amount not exceeding 5,000 Afghanis.

2– If the offender of the crime specified under the above paragraph is an official of public services, such that the objects are entrusted to him or by virtue of his occupation he becomes the trustee, he shall be sentenced to long imprisonment of not more than 7 years.

## **Chapter 26 – False Information and Abstention from Disclosing the Truth**

### **Article 377**

A person who wrongly informs judicial or administrative authorities of a crime, cognizant of the fact that the crime has not taken place, or the person with iniquitous intention, or cognizant of is untruthfulness, accuses another of committing a crime and creates unreal material evidence in this respect or causes legal action against a person, while being ware of his innocence, shall be punished in accordance with the provisions stated below:

1– If the false information pertains to a felony, the offender shall be sentenced to medium imprisonment of less than 3 years and shall be fined an amount not exceeding 15,000 Afghanis, or one of the two punishments stated.

2– If the false information pertains to misdemeanor or petty offense, the offender shall be sentenced to medium imprisonment, exceeding 3 years, and shall e fined an amount not exceeding 15,000 Afghanis, or one of the two punishments stated.

### **Article 378**

A person, cognizant of the untruthfulness of the matter, who informs judicial or administrative authorities or an official or public services of a disaster or a danger, shall be sentenced to medium imprisonment of not more than 2 years, and shall be fined an amount not exceeding 15,000 Afghanis, or one of the two punishments stated.

### **Article 379**

A person who has been officially charged with the duty of informing an official of public services and presents false information to the latter, or any other person, cognizant of the untruthfulness of the matter, who officially presents false information to an official of public services for the purpose of compelling to or abstention from performance of a certain duty, contrary to his obligation, such that if the truth of the incident were known to the official of public services he would have properly discharged of it, shall be sentenced to medium imprisonment of not less than 2 years and shall be fined an amount not exceeding 20,000 Afghanis, or one of the two punishments stated.

### **Article 380**

A person who informs, truthfully and without iniquitous intentions, judicial or administrative authorities of commitment of an act, the offender of which deserves punishment, shall not be punished.

### **Article 381**

1– A person who has been legally charged with the duty informing as official of public services of a matter and intentionally abstains from doing so (within the specified time limit), in view of the circumstances shall be sentenced to medium

imprisonment, not exceeding 2 years, or shall fined an amount not exceeding 24,000 Afghanis.

2– Any official of public services, charged with the duty of discovering crimes and arresting offenders of crime, who neglects to inform the crimes made known to him shall be punished in accordance with the provisions specified in the previous paragraph provided that in the said crime the filing of the claim is not subject to complain or the person committing the crime is the spouse, one of the roots or branches, brother or sister of the official of public services.

## **Chapter 27 – False Testimony**

### **Article 382**

If a person, under oath or affirmation, intentionally denies the truth, declares false statement, conceals the whole or part of the events pertaining to his testimony, his testimony shall be considered false.

### **Article 383**

1– A person who presents false testimony concerning a crime as a result of which benefit or loss is incurred on the offender, shall be sentenced to medium imprisonment of not less than 2 years and shall be fined an amount not exceeding 24,000 Afghanis.

2– If as a result of false testimony the accused is convicted the witness shall be sentenced to the same punishment to which the convict has been sentenced.

3– A person who presents false testimony in a non-criminal case or to officials of public services, shall be sentenced to short imprisonment, not less than 3 months, and shall be fined as amount not exceeding 10,000 Afghanis.

### **Article 384**

A person who, for the purpose of presenting false testimony, requests or accepts a gift or something else and the person who offers the gift or acts as a mediator, shall be both sentenced to the anticipated punishment of the crime of bribery or the crime of false testimony, whichever punishment is more severe.

### **Article 385**

The following persons shall be sentenced to the anticipated punishment of false testimony:

1– A person who compels a witness through coercion, seduction, or any other means to present false testimony even-though his intended aim is not fulfilled.

2– A person who as a result of a promise, gift or deceit, abstains from presenting testimony.

### **Article 386**

The following persons shall be sentenced to the anticipated punishment of false testimony:

1– A person who is appointed, by a court or officials of law, as an expert or interpreter and, intentionally, through any means, alters the truth.

2– A person who forges the interpretation (translation) of a document which can possibly be used by the court for establishing the truth.

3– A person who issues or signs a dissimulated document, cognizant of the fact that it is dissimulated, to be used in a judicial case; except, if issuing and signing of the document is legally permissible.

4– A person who uses a dissimulated document certificate, declaration, receipt, or any other dissimulated object in a judicial investigation or case.

5– A person who during an investigation or a court case registers matters contrary to facts or records, files, or other papers and documents which may be used for establishing the truth, as a result of which the verdict of the court is altered.

### **Article 387**

The following are considered extenuating excuses:

1– The return of the witness from false testimony and disclosure of facts prior to the final verdict of the court or prior to the final decision of the investigation council.

2– If the disclosure of truth imperils the witness such that his dignity or freedom is to be damaged, or his spouse, one of his root and branches, brother or sister is endangered.

### **Article 388**

The provisions pertaining to false testimony are not applicable to a person whose testimony is not necessary or to a person legally required to abstain from testifying.

## **Chapter 28 – Perjury**

### **Article 389**

1– If one of the parties involved in a judicial case is required to take oath and commits perjury, he shall be sentenced to medium imprisonment of not less than 2 years.

2– A person committing perjury who resorts to the truth, prior to the final verdict, shall not be punished.

### **Article 390**

A person, requested by officials of law or a judge, who abstains from testifying, without any legal or religious excuses, shall be sentenced to short imprisonment, not exceeding 6 months, and shall be fined an amount not exceeding 3,000 Afghanis.

## **Chapter 29 – Irreverence of the Dead and Graves**

### **Article 391**

The following persons shall be sentenced to short imprisonment and shall be fined, an amount not exceeding 5,000 Afghanis, or one of the two punishments stated:

1– A person who destroys or demolishes a grave or a tomb without religious grounds.

2– A person who intentionally does not show reverence to the whole or part of a dead body or takes away the shroud. If commitment of the above act is for the purpose of revenge or disgrace, the offender shall be sentenced to medium imprisonment, not exceeding 3 years.

### **Article 392**

A person who makes an effort to obtain the whole or part of a dead body, without the consent of the heirs, for technical or educational purposes, shall be sentenced to short imprisonment, not exceeding 6 months, or shall be fined an amount not exceeding 6,000 Afghanis.

### **Article 393**

1– A person who intentionally creates a brawl or a squabble at a funeral or postpones the burial by threat or coercion, shall be sentenced to short imprisonment or shall be fined an amount not exceeding 12,000 Afghanis.

2– A person who, contrary to the truth, turns a place into a grave or tomb shall be sentenced to short imprisonment.

## **SECTION 2 – FELONIES AND MISDEMEANORS AGAINST INDIVIDUALS**

### **[Summary of Section 2]**

CHAPTER 1 – MURDER  
CHAPTER 2 – ACCIDENTAL MURDER THROUGH BEATING  
CHAPTER 3 – CONCEALMENT OF THE BODY OF MURDERED [PERSONS]  
CHAPTER 4 – ABORTION  
CHAPTER 5 – BEATING AND LACERATION  
CHAPTER 6 – ILLEGAL ARREST AND DETENTION  
CHAPTER 7 – KIDNAPPING  
CHAPTER 8 – ADULTERY, PEDERASTY, AND VIOLATION OF HONOR  
CHAPTER 9 – INSTIGATING TO DELINQUENCY  
CHAPTER 10 – TRANSGRESSION AGAINST OTHERS’ RESIDENCE AND PROFESSION  
CHAPTER 11 – THREAT  
CHAPTER 12 – DEFAMATION  
CHAPTER 13 – ABUSE  
CHAPTER 14 – DISCLOSURE OF SECRET OF PERSONS  
CHAPTER 15 – ROBBERY  
CHAPTER 16 – LARCENY AND EXTORTION  
CHAPTER 17 – BREACH OF TRUST  
CHAPTER 18 – FRAUD  
CHAPTER 19 – CONCEALMENT OF OBJECTS ACQUIRED THROUGH CRIME  
CHAPTER 20 – COMMON PROVISIONS  
CHAPTER 21 – INTERFERENCE WITH THE FREEDOM OF AUCTIONS  
CHAPTER 22 – CRIMES PERTAINING TO TRADE  
    PART 1 – UNLAWFUL INTEREST  
    PART 2 – FALSIFICATION IN COMMERCIAL TRANSACTIONS  
    PART 3 – CRIMES PERTAINING TO BANKRUPTCY  
CHAPTER 23 – VIOLATION OF RIGHTS TO NON-MATERIAL POSSESSIONS  
CHAPTER 24 – CRIMES PERTAINING TO DEMOLITION, DESTRUCTION AND DISPLACEMENT OF BOUNDARIES  
    PART 1 – CRIMES PERTAINING TO DEMOLITION AND DESTRUCTION  
    PART 2 – DISPLACEMENT OF BOUNDARIES  
CHAPTER 25 – CRIMES PERTAINING SLAUGHTERING AND HURTING THE ANIMALS

### **Chapter 1 – Murder**

#### **Article 394**

If in a case of intentional murder the charge of “*Qasas*” is dropped or affected by one of the disqualifying reasons or lack of sufficient conditions, the murderer shall be

sentenced, in the light of circumstances, to a “*Tazeeri*” punishment in accordance with the provisions of this chapter.

### **Article 395**

A murderer shall be sentenced to death in one of the following cases:

1– In a case in which the murder is accomplished with premeditation and lying in wait.

2– If murder is accomplished by using poisonous, anesthetic, or explosive materials.

3– If murder is accomplished brutally, with low motivation or for pay.

4– If the murdered is one of the roots of the murderer.

5– If the murdered is an official of public services, murdered while performing duty or murdered as a result of his duty.

6– If the murderer had the intention of killing more than one person and as a result of his single act all of them have been murdered.

7– If murder is accompanied by a felony or misdemeanor.

8– If murder has been committed for the purpose of making preparation for, facilitation of or execution of committing felony or a misdemeanor whose anticipated punishment is not less than 1 year, or for the purpose of escape or evasion of punishment.

9– A person who is due to serve a sentence of long imprisonment and prior to the enforcement of the verdict initiates or accomplishes a murder.

### **Article 396**

The offender of a crime of murder, in one of the following cases, in view of the circumstances, shall be executed or shall be sentenced to long imprisonment:

1– In the case whose the murder had the intention of murdering only one person but his act resulted in the murder of more than one person.

2– In the case where the murderer dismembers the body of the murdered.

3– In the case where the criminal commits murder in cases other than those specified under paragraphs 1 and 2 of article 395 of this Law.

### **Article 397**

1– A person who instigates another to suicide or, one way or another, assists someone in an act of suicide, shall be imprisoned for a period not exceeding 7 years.

2– If, as a result of the instigation, the act of suicide has only been initiated, the offender shall be sentenced to short imprisonment.

3– A person who initiates an act of suicide shall not be punished.

### **Article 398**

A person, defending his honor, who sees his spouse, or another of his close relations, in the act of committing adultery or being in the same bed with another and immediately kills or injures one or both of them shall be exempted from punishment for laceration and murder but shall be imprisoned for a period of not exceeding 2 years, as a “*Tazeer*” punishment.

## **Chapter 2 – Accidental Murder through Beating**

### **Article 399**

1– A person, having the intention of killing someone, who beats, lacerates, administers harmful materials, or undertakes any other intentional act which is illegal, as a result of which the person against whom the crime has been committed dies, in view of the circumstances, shall be sentenced to long imprisonment.

2– If the crimes specified under the above paragraph are committed with prior insistence or the crimes committed are against officials of public services, while performing duties or due to their services, or the person against whom the crimes are committed is a root of the person committing the crimes, the offender shall be sentenced to continued imprisonment.

### **Article 400**

1– A person who kills another by mistake as a result of negligence, remissness, carelessness, or non-observance of rules and regulations, or a person who unintentionally becomes the cause for another person's killing, shall be imprisoned for a period of up to 3 years and shall be fined an amount not exceeding 36,000 Afghanis, or one of the punishments stated, unless the provisions of the law have specified differently.

2– If the mistake is a grave violation or the principles related to his occupation or profession or if the mistake is done while under the influence of narcotics or intoxicants or if during an accident the person refuses to assist, even though he has the potential, the person against whom the crime is committed, the offender shall be sentenced to medium imprisonment of not less than 2 years, and shall be fined an amount not exceeding 50,000 Afghanis.

3– If as a result of commitment of the crimes specified under the above paragraphs more than one person are killed, the offender shall be sentenced to medium imprisonment of not less than 3 years, and if one of the cases specified under paragraph 2 of this article is also accompanied, the offender shall be imprisoned for a period of not less than 7 years.

## **Chapter 3 – Concealment of the Body of Murdered [Persons]**

### **Article 401**

A person who conceals or buries the body of a murdered person, cognizant of the case of murder and without informing concerned authorities or prior to investigations made on the way and means of murder, shall be sentenced to short imprisonment of not less than 3 months, or shall be fined an amount not less than 3,000 Afghanis and not exceeding 12,000 Afghanis.

## **Chapter 4 – Abortion**

### **Article 402**

A person who intentionally causes abortion of a human fetus by beating or any other harmful means shall be sentenced to long imprisonment not exceeding 7 years.



### **Article 403**

1– A person who causes abortion by means of drugs or otherwise, even though the act has been accomplished with the consent of the pregnant, shall be sentenced to medium imprisonment or shall be fined an amount not less than 12,000 Afghanis and not exceeding 60,000 Afghanis.

2– If the drugs have been administered by mistake, the offender shall be sentenced to short imprisonment or shall be fined an amount not exceeding 12,000 Afghanis.

### **Article 404**

1– If the person committing the act of abortion is a medical doctor, surgeon, pharmacist, or a nurse, the offender shall be sentenced to the maximum anticipated punishment for the crime.

2– If the persons, specified under the above paragraph, commit the act of abortion for the purpose of saving the life of the mother, the offender shall not be punished.

### **Article 405**

A person who, cognizant of the repercussions of the act, deliberately uses drugs or other means or allows someone else to apply these means to her, as a result of which abortion takes place, shall be sentenced to short imprisonment or shall be fined an amount not exceeding 12,000 Afghanis.

### **Article 406**

Initiating an act of abortion shall not be deemed punishable.

## **Chapter 5 – Beating and Laceration**

### **Article 407**

1– A person who intentionally beats or lacerates another such that some bodily member of the letter is cut, injured or defected, or that the person permanently becomes handicapped or that the letter is deprived of one of his senses, in addition to compensation, shall be sentenced to medium imprisonment of not less than 3 years.

2– If commitment of the acts specified above causes the person against whom the crime has been committed to be deprived of his intellect, or if the acts are accompanied with premeditation and lying in wait, the offender shall be sentenced, in view of the circumstances, to long imprisonment not exceeding 10 years.

### **Article 408**

1– If beating or laceration causes inability to work or idleness of some bodily member for a period of more than 20 days, the offender shall be sentenced to short imprisonment of not less than 3 months, or shall be fined an amount not less 2,000 Afghanis and not exceeding 3,000 Afghanis.

2– If commitment of the acts mentioned above is accompanied by premeditation and laying in wait the offender shall receive the maximum anticipated punishment for the crime committed.

### **Article 409**

1– In the case where beating or laceration does not cause defect or idleness of some bodily member, or causes inability to work of some bodily member for a period of less than 20 days, the offender shall be sentenced to short imprisonment, not exceeding 6 months, or shall be fined an amount not exceeding 6,000 Afghanis.

2– If [one of] the acts mentioned above is accompanied by premeditation and laying in wait, the offender shall receive the maximum punishment for the crime committed.

### **Article 410**

If beating or laceration specified under the above paragraph, is committed by more than one person, or if a weapon or similar objects are involved in the act, the offender shall receive the maximum anticipated punishment.

### **Article 411**

A person who intentionally administers on someone else harmful (but not fatal) materials, as a result of which inability to work or idleness of some bodily member is caused, or the person is deprived of one of his senses, the offender, in addition to compensation, shall be sentenced to medium imprisonment of not less than 3 years.

### **Article 412**

A person who causes injury or beating of someone else as a result of negligence, carelessness, and lack of skills, in addition to compensation, shall be imprisoned for a period of not less than 3 months and not exceeding 2 years, or shall be fined an amount not less than 3,000 Afghanis and not exceeding 24,000 Afghanis.

### **Article 413**

1– If as a result of fighting severe laceration or beating takes places, each person involved in the fight shall be sentenced, for taking part in the fight, to medium imprisonment or shall be fined an amount not exceeding 60,000 Afghanis, except if the person's non-responsibility is proven.

2– If, in the cases specified above, the person instigating the fight or the person committing laceration or murder can be identified, the offender, in addition to compensation, shall receive the anticipated punishment of the crime committed.

## **Chapter 6 – Illegal Arrest and Detention**

### **Article 414**

A person who, illegally and without the instruction of concerned authorities, arrests, detains, or prevents someone else from work, shall be sentenced in view of the circumstances to medium imprisonment.

### **Article 415**

If arrest, detention, and prevention from work is accomplished by a person wearing, without right, official uniform or by a person who assumes a false attribute, or by a person presenting to other persons feigned orders of concerned authorities, to offender shall be sentenced in view of the circumstances to long imprisonment, not exceeding 10 years.

## Article 416

If arrest, detention, and prevention from work is accompanied by coercion, threat, or torture or if the person committing the crime is an official of the Government, the offender shall receive the maximum anticipated punishment specified under article 415 of this Law.

## Article 417

A person who knowingly lends a place to be used for illegal detention of other persons, shall be sentenced to medium imprisonment not exceeding 3 years.

## Chapter 7 – Kidnapping

### [Articles 418–424: Repealed, Official Gazette No. 952 (2008/1387)]<sup>13</sup>

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<sup>13</sup> Articles 356 and 418–424 repealed by article 23 of the Law on the Campaign Against Kidnapping and Human Trafficking, published in Official Gazette No. 952, dated 2008/07/15 (1387/04/25). The original text of the repealed articles reads as follows:

#### **“Article 418**

*“A person who takes away or hides a new-born baby from persons who have legal right over him, or changes him with another infant, or untruthfully relates him to someone other than his mother, shall be sentenced in the light of circumstances to medium imprisonment.*

*“A person who, himself or through another, kidnaps a child, not yet 7 years old, or someone who cannot look after himself, or leaves at large one of the persons mentioned in an uninhabited area, shall be sentenced to medium imprisonment, not exceeding 3 years.*

#### **“Article 419**

*“If as a result of commitment of the crimes specified under article 418 of this Law, some bodily member of the child or the person (kidnapped) is defected or lost, the offender shall be punished in accordance with the provisions of “Deliberate Laceration”, or if the child or the person (kidnapped) dies, the offender shall be punished in accordance with the provisions of “Deliberate Murder”.*

#### **“Article 420**

*“1– A person who, himself or through another, kidnaps, without coercion or fraud, a child not yet 18 years old, shall be sentenced to long imprisonment, not exceeding 7 years.*

*“2– If the kidnapped child is a girl, the offender shall be sentenced to long imprisonment, not exceeding 10 years.*

#### **“Article 421**

*“1– A person who, himself or through another, kidnaps with coercion or fraud, a child not yet 18 years old, shall be sentenced to long imprisonment.*

*“2– If the kidnapped child is a girl, the offender shall receive the maximum anticipated punishment of the above paragraph.*

#### **“Article 422**

*“A person who, himself or through another, kidnaps someone who is 18 years or over, shall be sentenced to medium imprisonment (from 3 to 5 years).*

#### **“Article 423**

*“If the acts specified under articles 420 and 421 of this Law are committed by a person who has influence or authority over the person against whom the crime has been committed, or if the former is charger with the responsibility of raising the latter, or if the former is a servant of the latter, or if a number of people are involved in the act, the offender shall be sentenced to long imprisonment, not less than 10 years.*

#### **“Article 424**

*“A person who, himself or through another, kidnaps a woman who is 18 years or over shall be sentenced to long imprisonment. In the case where the kidnapped woman is married, or act of*

## **Article 425 [Carrying Off Willing Girl for Lawful Marriage Not Kidnapping]**

A person who carries off a girl, who is 16 years or over, at her own will from her parents' residence for the purpose of lawfully marrying her, shall not be deemed as having committed an act of kidnapping.

## **Chapter 8 – Adultery, Pederasty, and Violation of Honor**

### **Article 426**

If in the crime of adultery the conditions of “*Had*” are not fulfilled or the charge of “*Had*” is dropped, because of double or other reasons, the offender shall be punished in accordance with the provisions of this chapter.

### **Article 427 [AMENDED]<sup>14</sup>**

1– A person who commits adultery or pederasty with a female or commits pederasty with a male in view of the circumstance shall be sentenced to long-term imprisonment.

#### **6– Modification (amendment) of article 427:**

"The person who commits adultery or sodomy with a female, or male sodomy, shall be sentenced to medium imprisonment or long-term imprisonment, **viewing the circumstances of each act.**"

2– In one of the following cases commitment of the acts, specified above, is considered to be aggravating conditions:

1– In the case where the person against whom the crime has been committed has not completed the age of 18 years old.

2– In the case where the person against whom the crime has been committed is a third degree relative of the offender.

3– In the case where the offender is a tutor, teacher, or servant of the person against whom the crime has been committed, one way or another, has authority or influence over the victim .

4– In the case where the person against whom the crime has been committed is a married woman.

5– In the case where the offender virginhood has been damaged as a result of this act.

6– In the case where two or more persons have assisted each other in committing the crime or that the offenders have committed the act one after another.

7– In the case where the victim has been affected by genital disease.

8– In the case where the person against whom the crime has been committed becomes pregnant.

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*adultery is committed with the kidnapped, the offender shall be sentenced to the maximum anticipated punishment.*"

<sup>14</sup>Articles 314, 316, 319(2), 321, 346, 427, and 494(1) amended by Annex No. 1 to the Penal Code, published in Official Gazette No. 391 (No. 22 of 1356), dated 1978/02/19 (1356/11/30), at pages 13–15.

### **Article 428**

If commitment of the act, specified under paragraph 1 of article 427 of this Law, results in the death of the person against whom the crime has been committed, the offender in view of the circumstances shall be sentenced to continued imprisonment or death.

### **Article 429**

1– A person who, through violence, threat, or deceit, violates the chastity of another (whether male or female), or initiates the act, shall be sentenced to long imprisonment, not exceeding 7 years.

2– In the case where the person against whom the crime is committed is not 18 years old, or the person who commits the crime is one of the persons specified under paragraph 2 of article 427 of this Law, the offender shall be sentenced to long imprisonment, not exceeding 10 years.

## **Chapter 9 – Instigating to Delinquency**

### **Article 430**

1– A person who instigates a male or a female, not 18 years old, to delinquency or a person who instigates another to acquire a profession pertaining to delinquency, or assists another in this respect, shall be sentenced to medium imprisonment, not less than 3 years.

2– If the person committing the crime is one of the persons specified under paragraph 2 of article 427 of this Law, or the act has been performed for the purpose of acquiring benefit, the offender shall be sentenced to long imprisonment, not exceeding 10 years.

## **Chapter 10 – Transgression Against Others’ Residence and Profession**

### **Article 431**

1– The following persons shall be sentenced to short imprisonment and cash fine of not more than 5,000 Afghanis or one of these two punishments:

1– A person who enters a residential place or a newly constructed place ready for residence without the consent of its owner or without legal grounds.

2– A person found hidden in one of the places mentioned in the above paragraph.

3– A person who enters the places mentioned in subparagraph 1 above in a legal manner and stays there against the will of its rightful owner.

2– If the purpose of entry to the place of hiding or remaining in there is the dispossession of the owner or the place by force or commitment of crime in there, the offender shall be sentenced to medium imprisonment of not more than 2 years and cash fine of not more than 10,000 Afghanis, or one of these two punishments.

3– If the crime mentioned in the above paragraph is committed between sunset and sunrise, or by breaking in or climbing, or by a person carrying a weapon openly or secretly, or by two or more persons, or by someone assuming the attribute of official of public services, or claiming to render a public service, or assuming any other false

attribute, the offender shall be sentenced to medium imprisonment of not less than 2 years.

### **Article 432**

1– If the crime mentioned in article 431 of this Law is committed in a place restricted for keeping goods and in possession of other than that mentioned in this chapter, the offender shall be sentenced to short imprisonment of not less than 3 months or cash fine of not less than 3,000 and not more than 12,000 Afghanis.

2– If the crime mentioned in the above paragraph is committed by at least two or more people of whom one has carried a weapon openly or secretly, the offenders shall be sentenced to medium imprisonment of not more than 2 years and cash fine of not more than 10,000 Afghanis or one of these two punishments.

## **Chapter 11 – Threat**

### **Article 433**

1– A person who threatens by means of writing another person to commit felony against the life or good of himself or against someone else, or his threat is based on dishonoring or revelation of some secret affecting one's honor, the offender shall be sentenced to long imprisonment of not more than 7 years, provided that the threat is accompanied by that want of something or obliging the performance or abstention from performance of a certain act.

2– If the threat is made by letter not bearing the name of the sender or its dispatching is attributed to some secret or unknown society, the offender shall be sentenced to the same punishment mentioned in the above paragraph.

### **Article 434**

A person who threatens another to felony against the life or good of himself or someone else based on dishonoring or revelation of some secret affecting one's honor, in cases other than that mentioned in article 433 of this Law, the offender shall be sentenced to medium imprisonment.

### **Article 435**

A person who threatens another by his own word of act or through someone else, in cases other than that mentioned in articles 433 and 434 of this Law, shall be sentenced to short imprisonment or cash fine of not more than 12,000 Afghanis.

## **Chapter 12 – Defamation**

### **Article 436**

1– Defamation is the attribution of a certain incidence to someone else by one of the "public" means, such that if it were true, the accused would have been punished or degraded in the eyes of the people.

2– If the conditions necessary for filing of "Had" claim are not present in a crime of defamation, or the claim of "Had" is dropped due to doubt or one way or another, the offender shall be sentenced to medium imprisonment of not more than 2 years and cash fine of not less than 10,000 and not more than 20,000 Afghanis, or one of these two punishments.

### **Article 437**

If defamation is an accusation to other than adultery or denial of parentage, such that the defamer should attribute to the defamed matters which, if true, would have made the latter liable to legal punishment or degraded in the eyes of the people, the offender shall be sentenced in accordance with article 384 of this Law.

### **Article 438**

If the defamer proves the truth of the act of incident which he has attributed to the defamed, he shall not be sentenced to any punishment.

### **Article 439**

If the defamed is previously sentenced for any crime to which the defamer has accused the defamed, the said defamer shall be sentenced to short imprisonment of not less than 3 months or cash fine of not less than 3,000 and not more than 12,000 Afghanis.

### **Article 440**

In a case of defamation no investigation, prosecution or filing of claim can take place without the complaint of the defamed.

## **Chapter 13 – Abuse**

### **Article 441**

Abuse is the attribution of something to someone, even if without reference to a certain incident, as a result of which the honor or standing of the person is hurt.

### **Article 442**

If the abuse is not based on a certain incident, but one way or another hurts the prestige or standing of a person, and if the abuse is done by one of the “public” means, the offender shall be sentenced to short imprisonment of not less than 3 months or cash fine of not less than 3,000 and not more than 12,000 Afghanis.

### **Article 443**

If the abuse is not made by one of the “public” means but through telephone, letter or someone else, the offender shall be sentenced to short imprisonment of not less than 3 months and not more than 6 months or cash fine of not less than 3,000 and not more than 6,000 Afghanis.

### **Article 444**

1– If one of the adversities, in the court or during the investigation, abuses the other, to the extent necessary for defense, he shall not be sentenced to any punishment.

2– If a person is attacked by another and abuses him during rage, the person shall not be punished.

## **Chapter 14 – Disclosure of Secret of Persons**

### **Article 445**

1– A person who discovers, through his job, occupation, profession, or nature of work, a hidden fact (of knowledge), and reveals the discovered fact contrary to the

provisions of the law or uses this fact for his own or someone else's benefit shall be sentenced to medium imprisonment or not more than 2 years, or would be fined an amount not exceeding 24,000 Afghanis.

2- In the cases where concerned authorities have the permission for revelation of the secret, or the revelation of the secret id for the purposes of informing of an act of felony or misdemeanor, the offender shall not be punished.

#### **Article 446**

The following persons shall be sentenced to short imprisonment or shall be fined an amount not exceeding 12,000 Afghanis:

1- A person who reveals someone else's family secret through news, pictures, or signboards even if it is true.

2- A person who learns, through telephone or letters, a hidden fact (of knowledge) and reveals the fact for the purpose of inflicting damage.

### **Chapter 15 – Robbery**

#### **Article 447**

1- Any person who takes position on a public route or such other places for the purpose of gaining possession of goods by means of overpowering with a weapon or an object similar to a weapon and commits one of the following acts shall be considered a robber:

1- Extortion of wayfarer.

2- Acquiring other person's goods by threat or coercion.

3- Murder.

4- Murder and acquisition of other person's goods.

2- If conditions of "*Had*" are not fulfilled or, one way or another, the due punishment for "*Had*" is dropped, the offender shall be served with a "*Tazeeri*" punishment in accordance with the provisions of this chapter.

#### **Article 448**

Murder committed in an act of robbery is not conditioned by intention.

#### **Article 449**

A person committing murder in an act of robbery shall be sentenced to death.

#### **Article 450**

A person indulging in terror during an act of robbery shall be sentenced to medium imprisonment of more than 3 years.

#### **Article 451**

Any person who acquires property through robbery shall be sentenced to long imprisonment.

#### **Article 452**

A robber initiating an act (of robbery) shall be sentenced to the anticipated punishment of initiating the crime.



### **Article 453**

A person committing robbery who also commits crimes which have not been specified in this chapter, shall be punished for the crimes committed in accordance with the provisions of the Law.

## **Chapter 16 – Larceny and Extortion**

### **Article 454**

1– If the conditions of “*Had*” are not fulfilled in an act of robbery or as a result of doubt “*Had*” becomes impossible or, one way or another, the due punishment of “*Had*” is dropped, the person committing the act of larceny shall be punished in accordance with the provision of this chapter.

2– A person who secretly carries away the personal goods, either moveable or “*maqtoom*” of another shall be considered guilty of larceny.

### **Article 455**

A person committing larceny under the conditions specified below be sentenced to continued imprisonment:

1– Larceny committed from sunset to sunrise.

2– Larceny committed involving more than one person.

3– Larceny committed carrying a weapon.

4– Larceny committed at a residence or an annex of the residence of through climbing or drilling a hole in the wall of the residence; breaking the entrance or the door; using forged keys; wearing military, police or other types of uniform; pretending that concerned authorities have approved of the entrance to the residence; arrangement with a resident; or any other type of pretence.

### **Article 456**

1– A person committing robbery through threatening with a weapon or indulging in duress shall be sentenced to long imprisonment.

2– While indulging in duress, if laceration results, the offender shall be sentenced to continued imprisonment.

### **Article 457**

Persons committing larceny from sunset to sunrise, and at least, one of them being armed, shall be sentenced to long imprisonment.

### **Article 458**

A person committing larceny involving articles of telephone or telegraph shall be sentenced to medium imprisonment provided that the crime is not categorized under aggravating conditions specified under article 456 and 457 of this Law.

### **Article 459**

The following persons shall be sentenced to medium imprisonment of not less than 3 years:

1– A person who commits larceny in a place of worship, residence, or an annex of a residence.

2– A person who trespasses into the a precinct, through breaking wall (boundary), using forged keys, or any other means, and commits larceny.

3– A person who commits larceny between sunset and sunrise.

4– A person who commits larceny, with participation of one or more other persons; the partners would receive the same punishment as the person committing the larceny.

5– A person who commits larceny carrying a weapon.

6– An employee who commits larceny for the purpose of inflicting damage to employer.

7– A factory worker committing larceny for the purpose of inflecting a loss to the owner.

8– A person working as a porter or a driver, driving any type of a vehicle, or, one way or another responsible for carrying goods, who commits larceny.

### **Article 460**

In cases where the act of larceny does not involve aggravating conditions specified in this chapter, or where the value of the goods involved in the act of larceny is insignificant, the offender shall be sentenced, depending upon the goods involved, to short imprisonment of more than 3 months, or medium imprisonment, not exceeding 2 years.

### **Article 461**

A person committing larceny involving agricultural products prior to harvest, shall be fined twice the value of the goods under reference, unless the value of the good exceeds 100 Afghanis.

### **Article 462**

A person initiating an act o larceny shall be subject to punishment not exceeding half the maximum punishment specified for committing the act under reference.

### **Article 463**

In all cases specified in this chapter, the person committing an act of larceny shall be ordered to return the good (s) acquired, or to return its price.

### **Article 464**

1– A person who takes the signature, document, seal, or fingerprint of another through violence, threat, or duress shall be sentenced to long imprisonment.

2– A person, utilizing the means specified above, for the purpose of modification, cancellation, annulment, or destruction of the items mentioned, or forcing another to sign, seal or put his fingerprint on a blank sheet shall be punished in accordance with the provisions specified under paragraph 1 of this article, unless aggravating conditions require more severe punishment.

3– If commitment of the crimes specified under paragraphs 1 and 2 of this article has not resulted in a benefit for the person committing the crime, and loss for the person against whom the crime has been committed, the offender, depending upon the case under reference shall be sentenced to medium imprisonment.

### **Article 465**

1– Unless specified in article 464, a person who compels another through threat to submit money or other goods shall be sentenced to long imprisonment of not more than 7 years.

2– If the crime mentioned in above paragraph takes place by force or coercion, the perpetrator shall be sentenced to long imprisonment not exceeding from 10 years.

## **Chapter 17 – Breach of Trust**

### **Article 466**

1– A person who has movable goods of another under custody and misuses the goods for his own or someone else's benefit or acquires possession of the goods contrary to provisions of law and contrary to the purposes for which the goods were given to him, shall be sentenced, in view of the goods under consideration, to medium imprisonment or shall be adjudged to pay an amount not less than 12,000 Afghanis and not exceeding 60,000 Afghanis.

2– The following persons who, by virtue of occupation or job, become trustee of someone else's goods, committing the crimes specified under paragraph 1 of this article shall be sentenced to medium imprisonment not exceeding 2 years:

1– An agent for carrying goods through land, sea, air.

2– Attorney, broker, or moneychanger.

3– Government official, contractor, or employee.

4– A person who becomes trustee by virtue of verdict of a court, or becomes executor or guardian of persons lacking competence or is charged for keeping in custody of possessions of a public utility institution, and commits crimes specified under paragraph 1 of this article shall be sentenced to long imprisonment not exceeding 7 years.

### **Article 467**

1– A proprietor, whose property has been brought under custody by virtue of a court verdict, using the property under consideration for his own or someone else's benefit, or taking possession of the goods, contrary to the provisions of law, or hiding the goods, or requesting submission of the goods to a person lawfully claiming them, such that the purpose of measures taken with respect to the good could not be achieved, shall be sentenced to short imprisonment, not less than 3 months, or shall be fined an amount exceeding 3,000 Afghanis and not exceeding 12,000 Afghanis.

2– Mortgager using the goods, put into his custody by mortgage, for his won or someone else's benefit or contrary to the purpose for which the goods were brought under his custody, shall be punished in accordance with the provisions specified under paragraph 1 of this article.

### **Article 468**

1– If a person purchases a movable good from someone and the seller keeps the good in his possession for the purpose of full payment and the purchaser, without advance permission of the seller, takes possession of the good such as to take it out of the custody of the seller, shall be sentenced to short imprisonment of not less than 3

months, or shall be fined an amount not exceeding 12,000 Afghanis and not less than 3,000 Afghanis.

2– Litigation against the crimes specified under the above paragraph cannot be undertaken without complaint of the seller. Litigation can be terminated prior to final verdict of the court if the seller so request. If the request is made after the pronouncement of final verdict of the court, the execution of the verdict shall be stopped.

## **Chapter 18 – Fraud**

### **Article 469**

1– A person who employs one of the following means for the purpose of gaining possession, either for himself or for another, of someone else’s movable property shall be sentenced to short imprisonment not exceeding 3 months.

1– Using fraudulent means.

2– Using false name or attribute, or furnishing false information concerning a particular incident as a result of which the person against whom the crime is committed is deluded and is compelled to submission.

2– A person who, using the means specified above compels another to submit a document pertaining to loans or document proving ownership of property or a quittance shall be punished in accordance with the provisions specified under paragraph 1 of this article.

3– A person who, using the means stated under paragraph 1 of this article, compels another to sign, seal, modify, destroy or mark with fingerprint a document noted under paragraph 2 of this article, shall be punished in accordance with the provisions stated under paragraph 1 of this article.

### **Article 470**

A person who knowingly takes possession of someone else’s movable property or estate of being cognizant of someone else’s seizure of it, or mutual agreement, takes possession of it such that as a result of it harm is inflicted upon another, shall be sentenced to short imprisonment of not less than 3 months.

### **Article 471**

1– A person who, using need, incapacity, or immaturity of another deceives him to acquire a document pertaining to ownership of property, debt, or other types of documents, as a result of which a loss is inflicted upon the person mentioned, shall be sentenced to short imprisonment of more than 3 months.

2– Lunatic, demented, interdict and a person with respect to whom an order for continuation of executorships has been issued, are considered incapacitated.

3– A person committing the crimes specified under paragraph 1 of this article who is guardian, trustee, executor, or in any way, custodian of the properties of the person against whom the crime has been committed shall be sentenced to long imprisonment not exceeding 7 years.

### **Article 472**

A person who issues a cheque knowing that it cannot be covered either by cash or credit, or after issuing the cheque withdraws all or part of his account such that the amount issued cannot be covered, or the cheque is intentionally issued in such a manner that payment is refused, shall be sentenced to short imprisonment or fined an amount not exceeding 12,000 Afghanis.

### **Article 473**

If the commitment of the crime specified under this chapter inflict a loss upon the person against whom the crimes have been committed, the offender shall be adjudged to compensation.

## **Chapter 19 – Concealment of Objects Acquired through Crime**

### **Article 474**

1– A person who knowingly conceals, brings under his custody or possession the objects acquired in committing a crime, depending upon the circumstances and unless the provisions of the Law have not specified more severe punishment, shall be sentenced to medium imprisonment.

2– If the objects mentioned above have been acquired through an act of misdemeanor, the offender shall be imprisoned, unless the punishment does not exceed the maximum punishment for committing the crime, or the person who has concealed these objects has not been involved in committing the crime under consideration, for a period not exceeding 3 years.

3– A person obtaining an object acquired through an act of felony or misdemeanor, under the circumstances where he should have known the unlawfulness of the matter, shall be sentenced to short imprisonment or shall be fined an amount not exceeding 12,000 Afghanis.

### **Article 475**

1– A person who, committing the crimes specified under article 474 of this Law, informs concerned authorities prior to prosecution of the offenders from whom the objects have been acquired, shall not be punished.

2– If a person informs the authorities after prosecution has begun, his information shall be deemed as an extenuating condition.

## **Chapter 20 – Common Provisions**

### **Article 476**

1– In crimes, specified under the chapters of this section which harms the spouse or one of the roots or branches, filing of claim or other actions against them are not permitted, except on the basis of the complaint of the victim. Prosecution shall be dropped upon desistance of the person against whom the felony has been committed.

1– In crimes, specified under the chapters of this section which harms the spouse or one of the family members or close relatives, filing of claim or other actions against them are not permitted, except on the basis of the complaint of the person against

whom the felony is committed. Prosecution shall be dropped upon desistance of the person against who the felony has been committed.[FN]

[FN] Note that another version in Dari (see Mobasher) of this Penal Code states chapters 5 (laceration and beating), 7(kidnapping), 11 (threat), 12 (defamation), 15 (robbery, including by murder), and 16 (larceny). Supposedly this is correct with the limited chapters, as the above is in error.

2– If the desistance is made after the final decision of the court, execution of the verdict shall be stopped.

3– In cases where objects pertaining to the location of the crime have been brought under custody, by virtue of court verdict or concerned authorities, or lent to someone else or has become the interest right of someone else, provisions stated in this article shall not be applicable.

## **Chapter 21 – Interference with the Freedom of Auctions**

### **Article 477**

A person interfering, through means of falsification and trickery, with the freedom of auctions (which are not attached to Government, institutions partially funded by Government, or semi-governmental organization) shall be sentenced to short imprisonment, exceeding 3 months and shall be fined an amount not exceeding 5,000 Afghanis, or one of the two punishments stated.

## **Chapter 22 – Crimes Pertaining to Trade**

### **PART 1 – UNLAWFUL INTEREST**

#### **Article 478**

A person who impermissibly lends or gives interest to another, either openly or secretly, shall be sentenced to short imprisonment, exceeding 3 months and shall be fined an amount not exceeding 5,000 Afghanis, or one of the two punishments stated.

### **PART 2 – FALSIFICATION IN COMMERCIAL TRANSACTIONS**

#### **Article 479**

A person who intentionally, through spreading fabricated news of events, propaganda, or any other falsified means, becomes the cause for lowering or raising the price of goods or bonds, or a person who conceals any goods ready for consumption or becomes the cause for such an act, shall be sentenced to short imprisonment and shall be fined an amount of not exceeding 5,000 Afghanis, or one of the two punishments stated.

#### **Article 480**

A person who acts fraudulently against someone with whom he has made a contract, in the access mentioned below, shall be sentenced to medium imprisonment, not exceeding 2 years and shall be fined an amount not exceeding 10,000 Afghanis:

- 1– In quantity, number, measure, weight, scale, and percentage of composition.
- 2– Delivering another good for what has already been agreed upon.
- 3– In quality, basic characteristics, and useful ingredients.

4– Type and source of good.

### **PART 3 – CRIMES PERTAINING TO BANKRUPTCY**

#### **Article 481**

A merchant, adjudged to be bankrupt, shall be considered a “fraudulent bankrupt” in the following cases:

1– In the case where the whole or part of his records are concealed, destroyed, changed or modified.

2– In the cases where he concealed or embezzled part of his possessions for the purpose of inflicting harm to his creditors,

3– In the case where he has made confession of feigned debts, regardless of the face whether the debts have been recorded or not.

4– In the case where he has abstained from giving explanations or submitting his documents to concerned authorities and he is aware of the effects of his abstention.

#### **Article 482**

Fraudulent bankrupt shall be sentenced to long imprisonment not exceeding 7 years.

#### **Article 483**

1– A merchant, adjudged to be bankrupt, and as a result of his misdeed loss is inflicted upon his creditors shall be considered a culpable bankrupt.

2– A bankrupt merchant shall be considered culpable in the following cases:

1– In the case where his personal considered culpable is greater than his earnings.

2– In the case where he spends significant amounts on gambling, lotteries, and wagering.

3– In the case where he purchases a good and sells the good at a lower price, or borrows significant amounts of money, or issues bonds, or employs other means for the purposes of gaining goods and thereby delaying his bankruptcy, thereby inflicting great losses upon himself.

4– In the case where he pays one of his creditors, after defrayal has been stopped, for the purpose of inflicting loss to his other creditors or for the purpose of reaching a compromise.

5– In the case where, utilizing fraud, he reaches a compromise with his creditors.

#### **Article 484**

Culpable bankruptcy shall be sentenced to medium imprisonment of not less than 2 years.

#### **Article 485**

A merchant, adjudged to be bankrupt, shall be considered culpable bankrupt in one of the following cases:

1– Where as regulations of commerce necessitate availability of business records and he looks them or his records are incomplete or are in a fashion from which his debts or possessions cannot be determined.

2– In the case where he does not submit, in due time, his balance sheet.

3– In the case where, after defrayal has been stopped, he does not present explanations required by law.

4– When asked, he does not appear, without valid excuse, before the authority which has adjudged him bankrupt, or he does not furnish explanations demanded by concerned authorities or the fallacy of his explanations become evident.

5– When in the interest of someone else, without due compensation, he concludes a large sum contract while his financial position, at the time of conclusion, does not allow this.

#### **Article 486**

1– If the court issues its final verdict pronouncing a commercial company gone bankrupt and a member of Board of Directors is established to have committed the crimes stated under article 481, shall be punished in accordance with the provisions specified under article 482 of this Law.

2– A member of Board of Directors” committing an act of fraud or deceit, which results in bankruptcy of the company or inhibits the company from payment, shall be punished in accordance with the provisions specified under article 482 of this Law.

#### **Article 487**

If final verdict is pronounced with respect to publicizing the bankruptcy of a minor, interdict, or someone where business is managed by a honest person, penal responsibility for the acts of fraud or incapacity are directed to the guardian, executor, or trustee who is proven to be guilty of fraud, falsification or incapacity, and such person shall be sentenced to the anticipated punishment in view of the circumstances.

#### **Article 488**

The following persons shall be sentenced to medium imprisonment, not exceeding 2 years, and shall be fined an amount not exceeding 10,000 Afghanis, or one of the two punishments stated:

1– A person concealing the whole or part of possessions of a bankrupt, even though he is the spouse or one of the roots or branches of the bankrupt.

2– A person who is actually not a creditor but engages in deliberation regarding the issue or, for the purpose of helping the debt or feigns a credit.

3– A creditor who signs special agreement with the debtor for the purpose of gaining benefit for himself and inflicting harm to other creditors.

4– A creditor who, using fraud, increases the amount of his credit or, in return for the vote of the debtor or someone else in the deliberation concerning the issue, sets special privileges or concessions.

#### **Article 489**

The court can order publication of verdicts of the crimes specified under this chapter.



## **Chapter 23 – Violation of Rights to Non-Material Possessions**

### **Article 490**

1– A person violating one of the rights to non-material possessions of another, protected by Law of an international agreement to which Afghanistan has consented, shall be fined an amount not exceeding 12,000 Afghanis, unless provisions of the Special Law stipulates more severe punishment.

2– Objects gained as a result of commitment of the crimes specified under paragraph 1 of this article shall be adjudged to be confiscated.

## **Chapter 24 – Crimes Pertaining to Demolition, Destruction and Displacement of Boundaries**

### **PART 1 – CRIMES PERTAINING TO DEMOLITION AND DESTRUCTION**

#### **Article 491**

A person destroying, demolishing, damaging or making useless a property (land, movable, or immovable) of another shall be sentenced to medium imprisonment, not exceeding 2 years, and shall be fined an amount not exceeding 10,000 Afghanis, or one of the two punishment stated.

#### **Article 492**

1– Each members of a group, consisting of at least 5 persons, destroying, demolishing, damaging, or making useless land or movable property of another shall be sentenced, in view of circumstances, to medium imprisonment.

2– If commitment of the crime specified under the above paragraph, is accompanied with violence, the offender shall be sentenced to long imprisonment not exceeding 7 years.

3– If commitment of the crime, specified under the above mentioned paragraph, is accomplished by means of agitation, disturbance, or calamity, the offender shall be sentenced to long imprisonment not exceeding 10 years.

#### **Article 493**

1– the following person, in addition to compensations shall be sentenced to short imprisonment and shall be fined an amount of not exceeding 5,000 Afghanis, or one of the two punishments stated:

1– A person destroying agricultural products, prior to harvest, of another.

2– A person demolishing or growing harmful plants on someone else's cultivation.

3– A person cutting, uprooting, destroying or planting harmful branches on someone else's tree or decorticating the tree for the purpose of drying it.

2– If the crime, specified under above paragraph is committed from sunset to sunrise, or at least three persons are involved, or two persons one of whom is armed are involved, each offender in view of the circumstances shall be sentenced to medium imprisonment.

## PART 2 – DISPLACEMENT OF BOUNDARIES

### Article 494 [AMENDED]<sup>15</sup>

1– A person, intentionally destroying or removing land boundary of another, or removing any land-mark used for the purpose of seizure or partitioning, shall be sentenced to medium imprisonment not exceeding 2 years and shall be fined an amount not exceeding 24,000 Afghanis.

2– If commitment of the crime specified under the above paragraph, is for the purpose of exerting land property of another or is accompanied with violence or the marks were set by official or semi-official authorities, the offender shall be sentenced to medium imprisonment of 2 years.

## Chapter 25 – Crimes Pertaining Slaughtering and Hurting the Animals

### Article 495

The following persons, in addition to compensation, shall be sentenced to short imprisonment and shall be fined an amount not exceeding 5,000 Afghanis or one of the two punishments stated:

1– A person who intentionally and needlessly kills or severely hurts or harms the riding animal or another.

2– A person poisoning the fish in rivers, streams, ponds, or pools or using explosives, chemicals, electric means, or similar methods for the purpose of catching.

3– A person who intentionally or needlessly kills or damages someone else's colony of bees or silkworms.

## SECTION 3 – PETTY OFFENSES

### [Summary of Section 3]

	<u>Art.</u>
Chapter 1 – Petty Offense Pertaining to Public Routes and Places .....	
Chapter 2 – Petty Offense Pertaining to Public Repose (Tranquility).....	
Chapter 3 – Petty Offense Pertaining to Public Health .....	
Chapter 4 – Petty Offense Pertaining to Estate, Goods, and Animals .....	
Chapter 5 – Petty Offense Pertaining to Public Manners .....	
Chapter 6 – Petty Offense Pertaining to Hotel Managers.....	
Chapter 7 – Miscellaneous Provisions .....	

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<sup>15</sup> Paragraph 1 of article 494 amended by Annex No. 1 to the Penal Code, published in Official Gazette No. 391 (No. 22 of 1356), dated 1978/02/19 (1356/11/30), at pages 13–15, which provided, “In paragraph 1 of article 494 of the Penal Code, the phrase ‘or one of these two punishments’ at the end of the mentioned paragraph shall be removed.”

## **Chapter 1 – Petty Offense Pertaining to Public Routes and Places**

### **Article 496**

The following persons shall be sentenced to short imprisonment, not exceeding 15 days, or shall be fined an amount not exceeding 500 Afghanis:

1– A person who needlessly or without the consent of concerned authorities causes crowding (either through digging a hole, placing objects or materials, or by another means which result in hindering passage), on a public route.

2– A person who causes inconvenience in public routes by stopping or parking vehicles, whether animal driven or otherwise, unless stopping or parking is for the purpose of loading, unloading, climbing-up or down passengers, and is accomplished within a reasonable span of time.

3– A person who demolishes a bridge or culvert without constructing any other means of passage.

4– In all the cases specified under this article, in addition to expenditures incurred in removing the barrier, the offender shall be adjudged to compensation.

### **Article 497**

The following person shall be fined an amount not exceeding 200 Afghanis:

1– Unless provisions of the law have specified otherwise, a person who offers his goods for sale during a period and a locality prohibited by law.

2– A person who tethers, stops, or washes animals or vehicles on public routes causing crowding and inconvenience.

### **Article 498**

A person modifying or changing the direction of traffic signs, indicating distance and direction and are placed on buildings or public routes, shall be imprisoned for a period not exceeding 1 month or shall be fined an amount not exceeding 5,000 Afghanis.

### **Article 499**

The following persons shall be imprisoned for a period not exceeding 1 month, or shall be fined an amount not exceeding 1,000 Afghanis:

1– A person who neglects to set warning signals nearby holes dug or objects placed on public routes.

2– A person who demolishes the warning signals mentioned above.

3– A person who destroys or removes light set on public route or failed for the purpose of illumination.

### **Article 500**

The following persons shall be imprisoned for a period not exceeding 1 month, or shall be fined an amount not exceeding 1,000 Afghanis:

1– A person who, without necessary precautions throws objects on public routes causing inconvenience to wayfarers, or suspends objects which may cause inconvenience or distress in case they fall down.

2– A person who, without necessary precautions, throws solid, liquid, or gaseous matter on another person, even though as a result of which no harm is inflicted upon the latter.

#### **Article 501**

A person installing or suspending advertisement in localities not authorized by law or, without any right, removes, destroys or modifies advertisements installed in authorized localities, shall be fined an amount not exceeding 1,000 Afghanis.

#### **Article 502**

The following persons shall be imprisoned for a period not exceeding 10 days, or shall be fined an amount not exceeding 300 Afghanis:

1– A person who rides animals or drives vehicles, without prudence, on public routes or fields and causes annoyance or inconvenience to other people.

2– A person who, from sunset to sunrise, drives or parks vehicles on public routes or fields without lights.

### **Chapter 2 – Petty Offense Pertaining to Public Repose (Tranquility)**

#### **Article 503**

A person neglecting or refusing to comply with orders of concerned authorities regarding restoring or demolishing a building on the verge of collapsing shall be fined, unless provision of the Special Law specifies otherwise, an amount not exceeding 1,000 Afghanis.

#### **Article 504**

The following persons shall be imprisoned for a period not exceeding 1 month, or shall be fined an amount not exceeding 1,000 Afghanis:

1– A person who, without the consent of concerned authorities, engages in fireworks or similar activities which may cause fire, harm or damage.

2– A person who uses explosives, gun-power or fire-arm in a city or a village.

3– A person who intentionally causes disturbance or inconvenience by blowing the horn, or producing uproar or hubbub.

4– A person who releases a lunatic, who terrifies people, on public routes.

5– A person who does not undertake necessary precautions in preventing harm or danger of an animal under his custody.

### **Chapter 3 – Petty Offense Pertaining to Public Health**

#### **Article 505**

The following persons shall be imprisoned for a period not exceeding 1 month, or shall be fined an amount not exceeding 1,000 Afghanis:

1– A person who buries a corpse in a city, village, or other localities not authorized.

2– A person who pollutes rivers streams, ponds, running waters, or lanes by throwing matter harmful to health.

#### **Article 506**

The following persons shall be imprisoned for a period not exceeding 15 days, or shall be fined an amount not exceeding 500 Afghanis:

1– A person who throws spoiled matter, impurities dirt, polluted water or other material harmful to health on public routes or recreational ground.

2– A person who intentionally or negligibly releases vapors, smoke, polluted water or any other material which harms, damages or causes inconvenience to others.

3– A person who is negligent in cleaning or restoring the chimney of oven or other apparatus using fire.

#### **Article 507**

A person who is in medical or health services and in examining an injured or a dead body, observes wound which indicate the possibility of commitment of crime and does not inform concerned authorities of the matter shall be imprisoned for a period not exceeding 3 months, or shall be fined an amount not exceeding 3,000 Afghanis.

### **Chapter 4 – Petty Offense Pertaining to Estate, Goods and Animals**

#### **Article 508**

The following persons shall be imprisoned for a period not exceeding 10 days, or shall be fined an amount not exceeding 300 Afghanis:

1– A person who crosses someone else’s land, cultivated or ready for cultivation, or prior to harvest, accompanied by an animal or otherwise.

2– A person who grazes cattle, sheep or other animals on someone else’s estate.

3– A person who throws stone (or other hard substances) impurities or dirt on someone else’s vehicle, residence, building, garden or estate.

4– A person who places objects in a streams, canal, pond or pool causing inconvenience to swimmers or narrowing the water channel.

#### **Article 509**

A person who by mistake kills or injures someone else’s animal shall be sentenced to short imprisonment not exceeding 10 days, or shall be fined an amount not exceeding 300 Afghanis.

#### **Article 510**

1– A person torturing or mistreating a domesticated animal or a pet shall be sentenced to short imprisonment not exceeding 3 months, or shall be fined an amount not exceeding 3,000 Afghanis.

2– A person overloading an animal or using sick, injured, or defective animals for purpose of work shall be punished in accordance with the provisions specified under paragraph 1 of this article.

## **Chapter 5 – Petty Offense Pertaining to Public Manners**

### **Article 511**

A person in a city or village washing himself in an undescend manner, or appearing nude in undescend manner, shall be imprisoned for a period not exceeding 10 days, or shall be fined an amount not exceeding 100 Afghanis.

### **Article 512**

A person watching-by in a way repugnant to public manners, shall be imprisoned for a period not exceeding 10 days, or shall be fined an amount not exceeding 100 Afghanis.

## **Chapter 6 – Petty Offense Pertaining to Hotel Managers**

### **Article 513**

A person owning a hotel, guest house, ledge or any other touristic establishment, who violates regulations concerning registration of guests, shall be imprisoned for a period not exceeding 3 months, or shall be fined an amount not exceeding 3,000 Afghanis.

## **Chapter 7 – Miscellaneous Provisions**

### **Article 514**

1– A person who uses one of the chemical derivatives of narcotics which blackens our one of his intellectuals or mental capabilities or the use of which causes immediate addiction or a disease difficult to be cured, shall be punished in accordance with the provisions pertaining to the use of narcotics and intoxicants.

2– Import, storage, sale, transportation, or circulation of the materials stated above is considered felony, and the offender shall be sentenced to long imprisonment.

### **Article 515**

1– A person who holds as hostage another person through threat, coercion, or any other means, shall be sentenced to long imprisonment.

2– If the person, held hostage, is wounded, killed or disabled, the offender shall be sentenced to the anticipated punishment of the crime committed, provided the punishment is not less than the punishment stated under the above paragraph.

3– If the offender has acquired money or any other good as a result of committing the crime specified under paragraph 1 of this article, he shall be adjudged to return the same good, or its equivalent, too.

### **Article 516**

A person who, through fraud or deceit, exploits or sells the working force of others or makes a transaction or the working force of others with foreign parties, in addition to compensation, shall be sentenced to long imprisonment.

### **Article 517**

1– A person who gives in marriage a widow, or a girls who is 18 years or older, contrary to her will or consent, shall be sentenced in view of the circumstances to short imprisonment.

2– If commitment of the crime specified under the above paragraph is for the purpose of compensation for a wrongdoing (*bad dadan*), the offender shall be sentenced to medium imprisonment not exceeding 2 years.

3– A criminal claim against perpetrator of crimes listed in paragraphs 1–2 of this article may be filed only if the victim makes a complaint.

### **Article 518**

A person who, without the consent of concerned authorities, intentionally assumes ownership of electricity, gas, water, minerals, or forestry, his act shall be considered a theft, and shall be sentenced, in addition to compensation, to imprisonment not exceeding 2 years, or shall be fined an amount not exceeding 24,000 Afghanis.

### **Article 519**

A person who acquires or finds lost or abandoned (*laquata*) goods and without valid excuse does not return the goods within a week to the nearby office or, in case its owner is identified, to its owner, in addition to deprivation from the reward, shall be fined an amount not exceeding 300 Afghanis.

### **Article 520**

1– A person who violates provisions of “Special Law” enacted by one of the authorities concerned with security or administration, municipalities, or traffic, shall be subject to pay the fine in accordance with the provisions of special law, provided that the punishment does not exceed the maximum anticipated punishment for committing the petty offense stated under article 26 of this Law.

2– If, under special law, punishment has not been stated for violating its provisions, the offender shall be fined an amount not exceeding 200 Afghanis.

3– Special law, under no circumstances, can anticipate punishment other than a fine whose limits have been specified under paragraph 1 of this article.

### **Article 521**

In cases where special law has specified penal provisions, the offender shall be punished in accordance with the provisions of the special law, unless this Law has stipulated otherwise.

### **Article 522**

With the enforcement of this Law, provisions of the Penal Law for Civil Servants and Crimes Against Public Security and Interests, dated 26 Qaus 1341 A.H. (December 1962), and the Law for Prosecution and Punishment of Bribery, dated 15 Hoot 1351 (March 1973), and any other provision of penal laws which are explicitly or implicitly in contradiction with this Law shall be considered abrogated. The Penal Law for Armed Forces is excepted from this provision.

**PENAL CODE OF AFGHANISTAN  
BOOK TWO**

**Article 523**

This shall come into force 30 days after its publication in the Official Gazette.

**(End of Book Two)**



**AMENDMENTS**  
**OFFICIAL GAZETTE No. 391**  
**(No. 22 OF 1356)**  
**DATED 1978/02/19 (1356/11/30),**  
**PAGES 13–15**

**Annex No. 1**  
**to the Penal Code**

**1– Modification (amendment) of article 314:**

Whenever the person who commits crimes mentioned in article 313 of this Law is not a **civil servant**, in accordance with the circumstances, he/she shall be sentenced to short or medium imprisonment.

**2– Modification (amendment) of article 316:**

1– The person who knowingly use forged documents listed paragraph 1 of article 313 and forged documents mentioned in articles 314 and 315 of this Law, in accordance with the circumstances, he/she shall be sentenced to medium or long-term imprisonment.

2– The person who knowingly use forged documents of paragraph 2 of article 313 of this Law, in accordance with circumstances, shall be sentenced to short or medium imprisonment."

**3– Modification (amendment) of article 319:**

"Paragraph 2 of article 319 of the Penal Code shall be removed and the provisions set forth in paragraph 1 shall, with the removal of the mentioned paragraph, be recognized as the complete text of the mentioned article."

**4– Modification (amendment) of article 321:**

"The person who knowingly use the forged certificate listed in articles 319 and 320 of this Law as that present it to court or one of the authorized officials of the Government, he/she shall be punished by the same penalty prescribed in the mentioned articles."

**5– Modification (amendment) of article 346:**

"To address crimes related to the import and export of a type of contraband **covered by the Law on Prohibited Goods (Contrabands)** and the perpetrator **in accordance with the circumstances** shall be punished with the prescribed penalty of the mentioned law."

**6– Modification (amendment) of article 427:**

"The person who commits adultery or sodomy with a female, or male sodomy, shall be sentenced to medium imprisonment or long-term imprisonment, **viewing the circumstances of each act.**"

**7– Modification (amendment) of paragraph 1 of article 494:**

"In paragraph 1 of article 494 of the Penal Code, the phrase 'or one of these two punishments' at the end of the mentioned paragraph shall be removed."

**PENAL CODE OF AFGHANISTAN**  
**BOOK TWO**

This Annex shall come into force upon publication in the Official Gazette.

Articles 314, 316, 319(2), 321, 346, 427, and 494(1) amended by Annex No. 1 to the Penal Code, published in Official Gazette No. 391 (No. 22 of 1356), dated 1978/02/19 (1356/11/30), at pages 13–15.

# OFFICIAL GAZETTE NO. 498, DATED 1981/12/22 (1360/10/01), PAGE 1

## Decree Dated 1360/09/18 on Annex No. 2 to the Penal Code

According to article 44 of the Basic Principles (Constitution) of the Democratic Republic of Afghanistan, the Board of Directors of the Revolutionary Council approves the following:

### **Article 1:**

Article 93 of the Penal Code is amended as follows:

When a person who has committed a crime completes (reaches?) the age of 18, the person may be sentenced to death.

### **Article 2:**

This Annex shall come into force upon publication in the Official Gazette.

### **Full title of decree:**

[Text of article 93 amended by Decree of the Board of Administrators of the Revolutionary Council of the Democratic Republic of Afghanistan on Annex No. 2 to the Penal Code, dated 1390/09/18, published in Official Gazette No. 498, dated 1981/12/22 (1360/10/01), at page 1.]

**OFFICIAL GAZETTE 547**  
**(1362/10/15)**

**Annex No. 3**  
**to the Penal Code**

**City of Kabul**

**Dated: 1983/12/14 (1362/09/23)**

The Board of Directors of the Democratic Republic of Afghanistan pursuant to the order of article 44 of the Basic Principles (Constitution) of the Democratic Republic of Afghanistan approves the following:

**Article No.1:**

Article 98 of the Penal Code is amended as follows:

Execution means shooting the convicted person to death.

**Article No.2:**

This Annex shall come into force upon its approval and shall be published in the Official Gazette.

**Babrak Karmal**  
**President of the Board of Directors**  
**of the Revolutionary Council**  
**of the Democratic Republic of Afghanistan**

# OFFICIAL GAZETTE NO. 624 (1366/06/15)

## Decree No. 128 dated 1366/04/20 on Increased Penalties for Embezzlement Crimes

### Bribery and Trafficking

The Board of Directors of the Revolutionary Council of the Democratic Republic of Afghansitan, for the purpose of aggravating the punishment of crimes of embezzlement of public and governmental properties, bribery and trafficking, pursuant to the order of article 44 of the Basic Principles (Constitution) of the Democratic Republic of Afghanistan, approves the following:

#### **Article 1:**

In article 148 of the Penal Code, subparagraph 6 is added as follows:

6- If the embezzlement of Government or public property is more than 1 million Afghanis and bribery is more than 100,000 Afghanis and it is done by a civil servant.

# OFFICIAL GAZETTE No. 763 (1370/12/17)

## Decree No. 1320 dated 1370/10/24, on Signature of the Legislative Decree on the Law on Limitation of the Death Penalty in the Republic of Afghanistan

The Law on Limitation of the Death Penalty in the Republic of Afghanistan, in light of the law of humanitarian policy and National reconciliation in order to achieve further consideration of this policy with the principles of Islam, while universally accepted standards and humanitarian considerations are the base for the actions of the Government of the Republic of Afghanistan. The following articles shall be applied in accordance with articles 39 and 115 of the Constitution:

### **Article 1:**

The punishment of the death penalty shall not be applied in the Republic of Afghanistan except in the following cases:

- 1– Intentional murder.
- 2– Massacre.
- 3– Explosion (combined with murder).
- 4– Highway robbery (combined with murder).
- 5– Crimes as a result of which the territory of the Republic of Afghanistan falls partially or wholly under the sovereignty of a foreign nation and incurs harm to its territorial integrity and independence.

### **Article 2:**

All applicable provisions of law in the country specifying a criminal punishment of execution (death penalty) shall be amended to 20 years imprisonment.

### **Article 3:**

This Law shall be enforced from the date 1370/10/25 and shall be published through mass media and the Official Gazette.

**OFFICIAL GAZETTE NO. 765**  
**(NO. 1 OF 1371)**  
**DATED 1992/04/06 (1371/01/17)**  
**PAGE 14**

**Decree No1398**  
**dated 1370/12/05**  
**of the President of Afghanistan**  
**on Endorsement of the Legislative Decree of the**  
**Council of Ministers**

**Legislative Decree No. 18**  
**of the Council of Ministers**  
**of the Republic of Afghanistan, dated 1370/11/28, on**  
**Repeal of Article 203 of the Penal Code**

**Article 1:**

Article 203 of the Penal Code is hereby cancelled (repealed).

**Article 2:**

This cancellation (repeal) shall be enforced upon its signature and shall be published in the Official Gazette.

PENAL CODE OF AFGHANISTAN  
BOOK TWO

Articles 365 and 418–424 are explicitly nullified by Law on the Campaign Against Kidnapping and Human Trafficking, published in Official Gazette No. 952, dated 2008/07/15 (1387/04/25).

**OFFICIAL GAZETTE No. 952, DATED  
2008/07/15 (1387/04/25)**

**Law on the Campaign Against Kidnapping and Human  
Trafficking**

**Enforcement**

**Article 23**

This Law shall enter into force upon publication in the Official Gazette and with its enforcement articles 356 and 418 through 424 of the Penal Code published in Official Gazette No. 347 of 1355, Legislative Decree No. 47 dated 1383/04/13 of the President of the Transitional Islamic State of Afghanistan on Intensification of the Campaign Against Kidnapping and Child Trafficking Crimes, and other contrary provisions shall be nullified.