



**IHRDC Translation of the  
Islamic Penal Code of the Islamic Republic of Iran – Book One & Book Two**

Incorporating all amendments up to January 2012

Adopted by the Legal Affairs Commission of the Islamic Consultative Assembly on Tuesday  
30/07/1991

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## Book One- Preliminary

### Chapter 1 - General Provisions

**Article 1** - The Islamic Penal Code deals with the types of offences and punishments and the security and correctional measures that shall be applied to the offender.

**Article 2** - Any act or omission, for which punishment is provided by law, constitutes an offence.

**Article 3** - Criminal laws shall apply to all persons who commit a crime within the territorial, maritime and aerial jurisdiction of the Islamic Republic of Iran, unless otherwise provided by law.

**Article 4** - When part of an offence is committed inside Iran and its result occurred outside Iranian territory, or part of an offence is committed inside or outside Iran and its result occurred inside Iran, the offence shall be deemed as having been committed inside Iran.

**Article 5-** Any Iranian or foreigner who commits one of the following offences outside Iran's jurisdiction and is found in Iran or is extradited to Iran, shall be punished in accordance with the Islamic Penal Code of the Islamic Republic of Iran:

- (1) Acting against the sovereignty of the Islamic Republic of Iran and the internal and external security and territorial integrity or the independence of the Islamic Republic of Iran.
- (2) Forging a decree, handwriting, seal or signature of the Leader or using them.
- (3) Forging official writings of the President, Chairperson of Islamic Consultative Assembly, Guardian Council, Chairperson of Experts Assembly, Head of Judiciary, Vice President, Head of Supreme Court, Attorney General, or any of the Ministers or using them.
- (4) Counterfeiting current banknotes of Iran or forging documents of Iranian bank[s] such as: bills of exchange accepted by the banks, checks issued by the banks, the banks' binding documents, treasury bills, bonds issued or guaranteed by government, or counterfeiting current coins.

**Article 6-** Any offence committed outside Iranian territory by foreign national employees of the Government of the Islamic Republic of Iran, or by the [Iranian] employees of the Government in

relation to their office and duties, as well as any offence committed by the Iranian diplomats and cultural and consulate agents that enjoy diplomatic immunity, shall be punished in accordance with the criminal laws of the Islamic Republic of Iran.

**Article 7-** In addition to the cases mentioned in articles 5 and 6, any Iranian who commits a crime outside Iran and is found in Iran shall be punished in accordance with the criminal laws of the Islamic Republic of Iran.

**Article 8** -Regarding the offences, which, according to a special law or international conventions, the offender shall be prosecuted in the country s/he is found, if the offender is arrested in Iran s/he shall be prosecuted and punished in accordance with the laws of the Islamic Republic of Iran.

**Article 9** -The offender must return the property s/he has acquired as a result of the commission of the offence to the owner and if the property is not available, the offender should return its equivalent or the price to the owner and also compensate the damages caused.

**Article 10** -In case of issuance of an order of non-prosecution or the cessation of persecution, the interrogator or prosecutor shall decide what should be done with the property and the objects that found as the proof or instrument of the offence or acquired as a result of committing the offence or have been, or intended to be, used during the offence, as whether they are to be returned or confiscated or destroyed. In case of confiscation, the court shall decide on the property and objects. Furthermore, the interrogator or prosecuting attorney, at the request of the beneficiary, shall issue the order of restoration of the abovementioned properties and objects in accordance with the following conditions:

- 1- All or part of the objects and property that are not needed for the purpose of investigation or legal procedure.
- 2- The objects and property that are unclaimed [by a third party].
- 3- They are not among those objects or properties subject to confiscation or destruction.

In all criminal cases, while issuing its judgement or order, or thereafter, whether convicting or declaring the accused innocent or issuing the order for cessation of prosecution, the court shall issue a specific judgement regarding the objects and property that are used as the instrument or acquired as a result of the offence or have been, or were intended to be, used during the offence, in regards to whether they should be returned or confiscated or destroyed.

Note 1 -The person affected by the order of interrogator or prosecutor or by the judgement or order of the court, according to the regulations, may file a complaint to the criminal court and request a review of their decisions on the objects and property cited in this article; even though the order or judgement of the court regarding the criminal aspect is not protestable.

Note 2 -The property, for which its maintenance requires undue expense by the government or causes its decay or gross loss of value, and for which preservation of the property is not

necessary for the judicial procedure, as well as perishable properties, shall be sold at the price of the day, by the order of the public prosecutor or the court; and the proceedings shall be deposited in the account of the judicial administration until the final determination is made.

**Article 11** -In governmental regulations and arrangements, punishment and security and correction measures must be in accordance with a law adopted prior to commission of the crime; and no act or omission is punishable by the law passed subsequently. However, if, after the offence is committed, a law is passed which provides mitigation or abolition of the punishment or is favourable to the perpetrator in some other way, it is applicable to the offences committed prior to the passage of the law until the final judgement is issued. In cases where a final binding judgment is issued under previous law, action shall be taken according to the following procedure:

- 1- In case an act, which was an offence in the past, is not considered as an offence under a subsequent law, the final judgement shall not be executed, and if it is in the process of execution, it shall be suspended; and in these two cases, and also in cases the judgement has already been executed, there shall be no criminal consequences. These regulations shall not apply to the laws set for a specific period and special cases.
- 2- In case the punishment of an offence is reduced under a subsequent law, the convict may apply for the commutation of the punishment; in which case, the issuing court or its successor, considering the subsequent law, shall reduce the previous punishment.
- 3- In case, according to a subsequent law, the punishment for an offence is converted to security and correction measures, only these measures shall be imposed.

## **Chapter 2 - Punishments and Security and Correction Measures**

### **Section 1 - The Punishments and Security and Correction Measures**

**Article 12** -The punishments provided for in this law include five types:

1- *Hudud* 2- *Qisas* 3- *Diyat* 4- *Ta'zirat* 5- Deterrent punishments

**Article 13**- *Hadd* is the punishment which its type and amount and quality is prescribed by *Shari'a*.

**Article 14** -*Qisas* [retaliation] is the punishment to which the criminal shall be sentenced and is equal to his/her crime.

**Article 15** -*Diya* is the monetary compensation prescribed by *Shari'a* for the crime.

**Article 16** -*Ta'zir* is the chastisement or punishment which its type and amount is not determined by *Shari'a* but left to discretion of the judge, such as imprisonment, fine and lashes; the number of lashes must be less than the number stipulated for *had* punishment.

**Article 17** -Deterrent punishment is the chastisement or punishment provided by the State for violations of governmental regulations and arrangements in order to safeguard public order and interests of the society; such as imprisonment, fine, closure of the business premises, cancellation of license, deprivation from social rights, banishment to certain places, inhibition of residence in certain areas and the like.

**Article 18** -The term of all imprisonment sentences starts from the day the convict is imprisoned in accordance with a final enforceable judgement.

Note -If the convict, prior to the issuance of the judgement, was detained for the accusation(s) raised in his/her dossier, after determining the *ta'zir* punishment, the court shall deduct the previous time spent in detention from the *ta'zir* or deterrent punishment.

**Article 19** -The court, in addition to its judgement, may punish the person who is convicted for a deliberate *ta'zir* or deterrent offence, by depriving him/her from social rights, or forbid him/her to reside in certain places or force him/her to reside in certain places, for a period of time.

Note: Places for banishment of convicts shall be determined by the courts according to the type of their offences. The relevant executive regulation shall be drafted by Ministry of Justice in cooperation with Ministry of Interior and adopted by the Head of Judiciary. (Note added on 5/17/1998 and amended on 1/17/2000)

**Article 20** -Deprivation of all or part of social rights, and banishment to a certain location or forbiddance of residence in a certain location must be proportionate to the offence and characteristics of the offender and for a fixed period of time. If the person convicted to banishment to a certain location or forbiddance of residence in a certain location leaves the banished location or enters the forbidden place during the period of enforcement of the judgement, s/he, by the proposal of the prosecutor's office in charge of execution of the judgement, the court can replace the said punishment to fine or imprisonment.

**Article 21** -The procedure of enforcement of criminal judgements and circumstances of prisons shall be the same as prescribed by Criminal Procedure Code and other laws and regulations.

## **Chapter 2: Mitigation of Punishment**

**Article 22** -If the court recognizes the mitigating factors, the court may mitigate the *ta'zir* or deterrent punishment or replace it with another punishment which is in the interest of the accused. The mitigating factors are:

- 1- Forgiveness by complainant or private plaintiff.
- 2- Remarks and directions of the accused which are effective in recognition of accomplices and accessories to the offence and in finding the proceeds of the offence.
- 3- Specific circumstances under the influence of which the accused has committed the offence; such as: inflammatory conduct or talk of the victim or honourable motive for committing the offence.
- 4- Statement of the accused prior to prosecution, or his/her confession during investigation which is effective in detection of the offence.
- 5- Specific condition of the accused or his/her background.
- 6- Measures or efforts by the accused in order to reduce the effects of the offence and compensate the loss resulting from it.

Note 1 -The court must stipulate the mitigating factors in its judgement.

Note 2 -In the case of multiple offences, too, the court may consider the mitigating factors.

Note 3 -If the same mitigating factors as mentioned in this article are provided in specific articles, the court may not mitigate the punishment again for the same mitigating factors.

**Article 23** -In regards to the offences which prosecution or trial or execution of the judgement shall be ceased upon the forgiveness of the victim, such forgiveness must be incontrovertible; and, a conditional and suspended forgiveness shall not be considered. Furthermore, repudiation from the forgiveness is not allowed. If there are multiple victims of an offence, the criminal prosecution shall commence upon complaint of each one of them; but, cease of prosecution, trial and punishment is subject to forgiveness of all complainants.

Note -The right to forgiveness is inheritable to the heirs of the victims of the offence. In case of forgiveness by all heirs, the prosecution, trial and punishment shall be ceased.

**Article 24** -Pardon or mitigation of punishment of the convict, in accordance with Islamic principles, is upon proposal of the Head of Judiciary and approval of the Leader.

### **Section 3 -Suspension of execution of punishment:**

**Article 25** -Considering the following conditions, the judge may suspend execution of all or part of punishment of all *ta'zir* or deterrent sentences for a period of two to five years:

(a) The convict should not have a record of final conviction to one of the following sentences:

- 1- Final conviction to a *hadd* punishment.
- 2- Final conviction to amputation or mutilation of a limb.
- 3- Final conviction to more than one year imprisonment for committing a deliberate offence.

- 4- Final conviction to a fine of more than two million Rials.
- 5- Previous record of final conviction for two or more deliberate offences irrespective of the extent of the punishments.

(b) Considering the social status and background of the convict and the circumstances led to commission of the offence, the court may not consider the execution of all or part of the punishment as suitable.

Note -In non-*ta'zir* and non-deterrent sentences, suspension of punishment is not allowed, except in cases stipulated by law or *Shari'a*.

**Article 26** -In cases where the conviction includes fines and other *ta'zir* punishments, the fine cannot be suspended.

**Article 27** -The order of suspension of a punishment shall be issued along with the judgement of conviction. The offender, whose sentence is fully suspended, if detained, shall be released immediately by the order of the court.

**Article 28** -The court, in its judgement, shall stipulate the factors and reasons for suspension of the punishment and the instructions which must be followed by the convicted offender during the period of suspension; and, the type of offence and personal conditions of the offender and the time period mentioned in Article 25, shall determine the time period of the suspension.

**Article 29** -Considering the conditions of the convict and the contents of the file, the court may order the convict to perform the following instruction(s) during the suspension period, and the convict is duty bound to perform the instruction:

- 1- Going to a hospital or clinic in order to treat his/her illness or addiction.
- 2- Refraining from a specific job or profession.
- 3- Studying at an educational institution.
- 4- Refraining from openly committing religiously prohibited acts or abandoning religious duties or from associating with people the court considers their association harmful for the convict.
- 5- Refraining from visiting specific places.
- 6- Reporting in specified times to a person or official assigned by the public prosecutor.

Note -If an offender whose punishment is suspended, without a plausible excuse, does not follow the court's instruction as mentioned in this article during the suspension period, upon request of the public prosecutor and after proof of the matter in the issuing court, on the first occasion one to two years shall be added to the suspension of his/her punishment, and on the second occasion the suspension shall be repealed and the suspended punishment shall be executed.

**Article 30** -The execution of the following criminal punishments cannot be suspended:

- 1- The punishment of importers, manufacturers and dealers of narcotics or those who assist them by any means.
- 2- The punishment of those convicted for embezzlement, bribery, fraud, forgery, use of forged documents, breach of trust, a theft which is not subject to *hadd* punishment, or abduction.
- 3- The punishment of those assist by any means in the acts punishable by *hadd*.

**Article 31** -Suspension of execution of a punishment that contains private claim, shall not affect the private claim, and, in such cases, the punishment shall be executed by compensating the private plaintiff.

**Article 32** -If, during the suspension of execution of the punishment, the condemned does not commit the offences mentioned in Article 25, the suspended sentence shall be considered ineffective and be removed from his/her criminal record. Immediately after the suspended sentence became finalized, the relevant prosecutor's office must issue a criminal record for all such convicts and send the records to the competent authorities. In all cases when an amendment is made in the duration of the suspension period or if the decision on suspension of the sentence is cancelled, the matter must be reported immediately to the competent authorities to be registered in the criminal records of the convict.

Note -If, according to employment laws, a sentence shall result in dismissal [of a job], it shall not apply to suspended sentences, unless otherwise stipulated in the laws or the judgment of the court.

**Article 33** -If a person, who has received a suspended sentence, during the suspension period, commits a new offence punishable by a sentence mentioned in Article 25, as soon as the new offence becomes finalized, the court which had issued the order of suspension of the previous sentence, or the substitute court, must announce the cancellation of the order, so that the suspended sentence shall be executed as well.

**Article 34** -If, after the order of suspension is issued, it is known that the convict had previously been convicted to one of the punishments mentioned in Article 25 and the court has suspended the sentence without noticing it, the public prosecutor, on the basis of previous conviction, shall ask the court to cancel the suspended sentence. After the previous conviction is ascertained, the court shall cancel the order of suspension.

**Article 35** -When issuing the order of suspension, the court shall explicitly state the consequences of failure to obey its orders and declare that if during the suspension period, the offender commits an offence punishable by sentences mentioned in Article 25, in addition to the sentence for the new offence, the suspended sentence shall be executed as well.

**Article 36** -The provisions regarding the suspension of punishment shall not apply to persons who are convicted of multiple deliberate offences. Furthermore, if a person, for committing

deliberate offences, has received multiple final convictions, which include suspended sentence(s), the prosecutor in charge of the execution of the sentence must ask the issuing court to cancel the order(s) of suspension. The court shall cancel the aforesaid order(s).

**Article 37** -When an individual who is sentenced to prison, while serving in prison and before the completion of the term, becomes insane and the insanity is confirmed by Forensic Medicine, the convict shall be sent to a mental hospital; and his/her stay in the hospital shall be counted as his/her term of sentence. If a mental hospital is not available, at the discretion of the public prosecutor, s/he shall be maintained in a suitable place.

#### **Section 4 -Conditional release of prisoners**

**Article 38** -Any person sentenced to prison for the first time for the commission of an offence, after half of the sentence is served, may be released conditionally by the order of the court that has issued the final judgment of conviction, provided that the following conditions are met:

- 1- If [the offender] has shown good behaviour whilst serving his/her sentence.
- 2- If, from the conditions of the convict, it is predicted that s/he will not commit any offence after being released.
- 3- If the loss or damage contained in the judgment of the court or agreed upon by the private plaintiff has been compensated or has arranged to be paid; and when the sentence includes both imprisonment and fine, s/he pays the fine, or, with the approval of the Director of the Judicial District, an arrangement is made for the payment.  
(Amended 05/17/1998)

Note 1 -The conditions aforesaid in paragraphs 1 and 2 should be approved by the Director of the prison where the prisoner is serving his/her sentence, and, the prosecutor in charge of the prison, or the Director of the Judicial District. The conditions aforesaid in paragraph 3 shall be approved by the prosecutor in charge of execution of the sentence. (Amended 05/17/1998)

Note 2 -If the court that issued the sentence is dissolved, the substitute court has the authority to issue the order of conditional release. (Amended 05/17/1998)

Note 3 -The court, in its judgment, shall state the conditions and requirements that the convict must comply with during the conditional release term, such as: residing in a specific place or non-residing in a specific place, refraining from a specific job, periodic reporting to designated centres and the likes. In case of failure to comply with the requirements or committing a further crime, the rest of his/her sentence shall be executed by the order of the issuing court. (Amended 05/17/1998)

**Article 39** -Issuance of the order of conditional release is subject to the proposal of the Organization of Prisons and approval of the prosecutor or assistant prosecutor in charge of the prison.

**Article 40** -The term of conditional release, at the discretion of court, shall be between one and five years.

### **Chapter 3 -Offences**

#### **Section 1 -Attempting an offence**

**Article 41** -Anyone intends to commit an offence and attempts to commit it, but the intended offence does not take place, if the acts committed [themselves] are offences, s/he shall be punished for the same offences.

Note 1 - Mere intention to commit an offence and preliminary acts and steps which have no direct connection with the commission of the offence are not regarded as an attempted offence and therefore they are not punishable.

Note 2 -If a person who has attempted an offence [but] has abandoned it by his own free will, and the acts committed are [themselves] offences, s/he may receive remission of punishment.

#### **Section 2 -Associates and accomplices of an offence**

**Article 42** -Any person who knowingly and intentionally associates with other person(s) in an offence punishable by *ta'zir* or deterrent punishments, and the offence is attributed to their collective action, whether or not the action of each one would be sufficient for committing the offence, and whether the result of their actions are equal or different, shall be regarded as an accomplice to the offences. His/her punishment shall be as though one person has individually committed the offence. If an unintentional offence is committed as a result of unintentional acts of two or more people, the punishment for each offender shall be as though one person has individually committed the offence.

Note - If the effect of the interference and assistance of the accomplices is weak, the court shall remit his/her punishment in proportion to the effect of his/her act.

**Article 43** -The following persons shall be considered abettors to the offence and shall be punished, considering the circumstances and means and instances and degrees of the offence and punishment, which ranges from advice, intimidation to other degrees of *ta'zir*:

- 1- Every person who incites or encourages or threatens or suborns someone else to commit an offence, or through a plot, trick or deception, causes an offence to be committed.

- 2- Every person who knowingly and intentionally provides the means for commission of an offence, or, knowing the intention of the offender, shows him/her the way to commit an offence.
- 3- Every person who knowingly and intentionally facilitates the commission of an offence.

Note 1 -Abetment of an offence takes place on the condition that the act of the abettor is prior or simultaneous to the act of the principal of the offence and both have the same intention.

Note 2 -If, due to legal considerations, the principal to the offence cannot be prosecuted and punished, or his/her prosecution or execution of the punishment is stopped due to legal considerations, it shall have no effect on [prosecution or punishment of] the abettor of the offence.

**Article 45** -Leadership of [a gang of] two or more persons in committing an offence, whether, they act as principals or abettors to the offence, is one of the aggravating factors of punishment.

### **Section 3 -Multiplicity of offences**

**Article 46** -Regarding the *ta'zir* offences, when a single act falls under the title of multiple crimes, the act shall be sentenced for the crime with the most severe punishment.

**Article 47** -In the case of multiplicity of offences, if the offences are of a different nature, each offence shall receive a separate punishment; otherwise, there shall be given a single punishment. In the latter case, the multiplicity of the offences may result in aggravated punishment; and if all of the committed offences fall under the title of a single crime, then, the offender shall be sentenced to such punishment provided by law.

Note -multiplicity of *hadd* crimes, *qisas* and *diyat* shall be punished as provided in the relevant chapters.

### **Section 4 -Recurrence of crime**

**Article 48** -Any person, who is sentenced by the court to *ta'zir* or deterrent punishments, if, after the execution of the sentence, commits a further *ta'zir* offence, the court may aggravate the *ta'zir* or deterrent punishment.

Note -When, at the time of issuance of judgment, the court is not aware of the previous convictions of the offender, but they are known afterwards, the public prosecutor may inform the issuing court, and, if the court is certain that the previous convictions are final, it may take action in accordance with this article.

**Recurrent Article 48 (added 6/5/2008)** -Every person who has two or more criminal records for committing intentional offences, and if he or she commits a further deliberate offence, then he or she may be sentenced by the court when issuing the judgment of conviction, in proportion to the backgrounds and mental and moral considerations and personalities of the offenders and the reasons of commission of the crime, to carry out one or more orders mentioned in Article 29 of this Code for a period not exceeding two years.

Note 1 -The court may assign the execution of the orders, accordingly, to the Welfare Organization or Prisons and Security and Corrective Measures Organization or the Police.

Note 2 -If the convict, without a plausible excuse, breaches the order of the court, in the first occasion, the term of the order shall be extended up to six months, and if repeated, the remaining term of the period shall be replaced with imprisonment.

Note 3 -Protestability of the order of the court depends on protestability of the main judgment.

#### **Chapter 4 -Scope of criminal liability**

**Article 49** -Children, in case of committing an offence, are exempt from criminal liability; and their correction is the responsibility of their guardians or, if appropriate, the Juvenile Correction and Rehabilitation Center.

Note 1 -A child is a person who has not reached the age of puberty as stipulated in Islamic *Shari'a*.

Note 2 -If, in order to correct child offenders, corporal chastisement is deemed necessary, it must be moderate and expedient.

**Article 50** -If a minor commits a murder, injury or battery, his/her *āqeleh* [i.e. male paternal relatives] shall be liable [to pay *diyya*]. However, when a child causes a loss of property, the child him/herself shall be responsible and his/her guardian shall compensate the loss from the child's property.

**Article 51** -Insanity, of any degree, at the time of commission of an offence, exempts the offender from criminal liability.

Note 1 -If chastisement is deemed effective, the court shall order the offender to be chastised.

Note 2 -In the case of periodic insanity, exemption from criminal liability relies upon insanity of the offender at the time of commission of the offence.

**Article 52** -If, at the time of commission of the offence, the offender is insane, or s/he becomes insane after the occurrence of the offence, and his/her insanity and dangerous condition is diagnosed by a specialist, by the order of public prosecutor, s/he shall be kept in an appropriate

place until such a condition is ended, and s/he can be released by the order of public prosecutor. The detainee or his/her relatives can protest against this order to the competent court in charge of the offence; in such case, the court, in an administrative session, in presence of the protestor and the prosecutor or his representative, and considering the opinion of the specialist, shall consider the issue out of turn and decide to either release the detainee or confirm the prosecutor's order. The decision shall be final, but the detainee or his/her relatives shall be entitled to protest against the order of the public prosecutor if the detainee shows signs of improvement.

**Article 53** -If, as a result of consumption of alcoholic beverage, a person loses his/her control, but it is proved that the alcoholic beverage was consumed in order to commit the offence, the offender shall be punished for both consumption of alcoholic beverage and the offence committed.

**Article 54** -If any person, under unendurable coercion or duress, commits an offence which is subject to *ta'zir* and deterrent punishments, s/he shall not be punished. In such a case, the person who has forced the offender to commit the offence, considering the circumstances, means, instances and degrees of the offence and punishment, which range from advice, reprove, intimidation to other degrees of *ta'zir*, shall be punished as the actual offender.

**Article 55** -If any person, during grave dangers such as fire, flood or storm, commits an offence in order to save his/her, or someone else's, property or life, s/he shall not be punished, provided that s/he has not caused the danger intentionally and his/her action is in proportion to the danger and is necessary to avoid the danger.

Note -This article does not apply to *diyya* and financial liability.

**Article 56** -The acts for which punishments have been provided shall not be considered as offences in the following cases:

- 1- When the act is done in obedience to the order of a lawful commanding authority and is not contrary to Islamic *Shari'a*.
- 2- When the act is done to implement a more important law.

**Article 57** -When an offence is committed in compliance with an unlawful order of an official authority, both the commanding official and the offender shall be punished in accordance with the law. But if the offender has committed the act in reliance on an acceptable mistake and on the assumption that it was lawful, s/he shall be only sentenced to *diyya* or financial compensation.

**Article 58** -If due to a judge's fault or mistake of a judge in respect to a matter of fact or law, a person sustains tangible or intangible damages, regarding the tangible damages, the culpable [judge], in case of fault, shall be responsible for compensating the damages in accordance with Islamic rules; otherwise, the government shall be responsible for compensation; and regarding

intangible damages, if the fault or mistake has resulted in the disgrace of a person, s/he must be rehabilitated.

**Article 59** -The following acts shall not be considered an offence:

- 1- The acts committed by parents and legal guardians of minors and insane people in order to chastise or protect them provided that chastisement and protection are exercised within the customary limit.
- 2- Every legitimate medical or surgical operation which is done by the consent of the patient or his/her parents or guardians, or their legal representative, with due consideration given to technical and medical and governmental regulations. In emergency cases obtaining consent is not required.
- 3- The accidents arising from athletic exercises, provided that the causes of the accidents are not the violation of relevant rules of that sport, and such regulations do not violate the rules of Islamic *Shari'a*.

**Article 60** -If a physician has obtained the consent of a patient or his/her guardian prior to treatment or operation, the physician is not liable for any loss of life or organ defect or financial loss; and in emergency cases when obtaining consent is not possible, the physician is not liable.

**Article 61** -For any person who commits an offence in defence of his/her, or someone else's, life or honour or chastity or property or physical freedom, against any actual aggression or imminent danger, provided that all of the following conditions are met, s/he shall not be prosecuted and punished:

- 1- The defence is proportionate to the aggression and danger.
- 2- The action is not excessive.
- 3- Resorting to governmental forces is not practicable in a reasonable time, or the intervention of such forces is not effective in repelling the aggression and danger.

Note -Defending someone else's life or honour or chastity or property or freedom is permissible provided that s/he is not able to defend him/herself and needs help.

**Article 62** -Resistance against security and police forces whilst performing their duties shall not be considered defence; however, if such forces exceed the scope of their duties and, on the basis of reasons and circumstances, there is a fear that their actions may cause death or injury or violation of honour or chastity, then, defence shall be permissible.

**Recurrent article 62 (added 17/5/1998)** -Final criminal conviction of the following deliberate offences shall deprive the convict from social rights, and the effects shall be terminated after the fixed term has ended and the sentence is executed:

- 1- Convicts of offences punishable by *hadd* sentenced to amputation of limbs, five years after execution of the sentence.

- 2- Convicts of offences punishable by *hadd* sentenced to flogging, one year after execution of the sentence.
- 3- Convicts of *ta'zir* offences sentenced to prison, two years after execution of the sentence.

Note 1 -Social rights are those rights which the lawmaker has provided for the citizens of Islamic Republic of Iran and other residents of its jurisdiction, and may be deprived on the basis of law or judgment of a competent court, such as:

- (a) Right to be elected in the Islamic Consultative Assembly (*Majlis*), Assembly of Experts of the Leadership and membership in Guardian Council and as the President.
- (b) Membership in all societies, councils, associations which their members shall be elected by virtue of law.
- (c) Membership in juries and boards of trustees.
- (d) Holding a job in educational careers and journalism.
- (e) To be employed in ministries, state organizations, companies, governmental institutes, municipalities, public services institutes, departments of Islamic Consultative Assembly (*Majlis*) and Guardian Council and Revolutionary bodies.
- (f) To become and function as an attorney at law and manager, and assistant, of a notary public and marriage and divorce registry offices.
- (g) To be elected as an arbitrator and expert in official bodies.
- (h) To use state medals and medallions and honorary titles.

Note 2 -If, for any reason, the execution of the death penalty is stopped, the legal consequences shall be removed after seven years since the execution was stopped.

Note 3 -Regarding forgivable offences, if after the final decision is made, the execution of the sentence is stopped as a result of forgiveness by the complainant or private plaintiff, the legal consequences of the punishment shall be removed.

Note 4 -Granting an offender a pardon shall not result in removal of legal consequences of the punishment, unless otherwise stipulated.

Note 5 -In cases where pardon includes the legal consequences, as well as in the case of conditional release, the consequences shall be removed after the prescribed terms are passed since the time the convict is released.

## **Book Two -*Hudud***

### **Chapter 1 -*Hadd* punishment for *Zina***

#### **Section 1 -Definition and grounds of *hadd* punishment for *zina***

**Article 63** -*Zina* is defined as sexual intercourse of a man with a woman who is inherently prohibited to him, even if it is an anal intercourse, except in the cases where the intercourse is done by mistake.

**Article 64** -*Zina* shall be punished by *hadd* if the man or woman is pubescent, sane and free as well as being aware of the matter of fact and law.

**Article 65** - If a woman or a man is aware of prohibition of the sexual intercourse whilst the other party is not aware and believes that this act is permissible for him/her, only the knowing party shall be sentenced to the *hadd* punishment for *zina*.

**Article 66** - If the man or the woman who had sexual intercourse claims that s/he has [engaged in intercourse] as a result of mistake and was unaware, and in the case that there is the likelihood of veracity of the claim, the claim shall be accepted without [resorting to] witnesses and oaths, and the *hadd* punishment shall not be given.

**Article 67** -If the man or woman claims s/he has been forced to commit *zina*, the claim shall be accepted, provided that there is no proof to believe otherwise.

## **Section 2 -Procedure of proving adultery in court**

**Article 68** -If a man or woman confesses to *zina* four times before the judge, s/he shall be sentenced to *hadd* punishment for *zina* and if the confession is made less than four times, s/he shall be sentenced to *ta'zir* punishments.

**Article 69** -The confession is valid provided that the confessor enjoys the following conditions: puberty, sanity, liberty and intention.

**Article 70** -The confession must be explicit or be made so clear that there is no wise doubt to believe otherwise.

**Article 71** -When a person confesses to *zina* and subsequently denies it, and if the sentence for the confessed *zina* is the death penalty or stoning to death, the subsequent denial removes the *hadd* punishment of the death penalty or stoning to death; otherwise, the denial after confession shall not result in removal of the *hadd* punishment.

**Article 72** -When a person confesses to *zina* which is punishable by *hadd* and subsequently repents, the judge may either request for his/her pardon from the Leader, or implement the *hadd* punishment.

**Article 73** -An unmarried woman who becomes pregnant shall not be sentenced to *hadd* punishment, unless it is proved by one of the procedures mentioned in this Code that she has committed *zina*.

**Article 74** -*Zina*, either punishable by *hadd* punishments of flogging or stoning to death, shall be proved by testimony of four just (*ādel*) men or three just men together with two just women.

**Article 75** -If a *zina* crime is only punishable by flogging, it may also be proved by the testimony of two just men together with four just women.

**Article 76** -The testimony of women alone or together with the testimony of one just man may not be proof of *zina*, but rather, the witnesses shall be sentenced to *hadd* punishment for *qazf* [i.e. false accusation of sexual offences].

**Article 77** -The testimony of witnesses must be clear, without vagueness and based on observation; and conjectural testimony is not valid.

**Article 78** - When the witnesses describe the details of the subject matter of the testimony, there must be no discrepancy in the details concerning time, place, and the like. In the case of discrepancy between the [statements of] the witnesses, not only is *zina* not proved, but also the witnesses shall be sentenced to *hadd* punishment for *qazf*.

**Article 79** -The witnesses shall testify one after another without any interval. If some of the witnesses testify and some others do not appear immediately to testify, or refuse to testify, *zina* is not proved. In this case, the testifying witness(es) shall be sentenced to *hadd* punishment for *qazf*.

**Article 80** - The *hadd* punishment for *zina*, other than in the cases mentioned in the following articles, shall be executed immediately.

**Article 81** -If the man or woman, who committed *zina*, repents prior to testimony of witnesses, the *hadd* punishment shall be removed; but, if s/he repents after the witnesses testified, the *hadd* punishment shall not be removed.

### **Section 3 -Different types of *hadd* punishment for *zina*:**

**Article 82** -In the following cases the *hadd* punishment for *zina* is the death penalty and there is no distinction between young and old or between married or unmarried:

- (a) *Zina* with blood relatives who are prohibited to marry.
- (b) *Zina* with a step-mother; in which case, the man who committed *zina* shall be sentenced to the death penalty.
- (c) *Zina* of a non-Muslim man with a Muslim woman; in which case, the man who committed *zina* shall be sentenced to the death penalty.
- (d) *Zina* committed by coercion or force [i.e. rape]; in which case, the man who committed *zina* by coercion or force shall be sentenced to the death penalty.

**Article 83** -In the following cases the *hadd* punishment for *zina* is stoning to death:

- (a) *Zina* of a *mohsan* man, that is a man who is married to a permanent wife and has had sexual intercourse with her whilst he has been sane and can have sexual intercourse with her whenever he so wishes.
- (b) *Zina* of a *mosaneh* woman with an adult man; a *mohsaneh* woman is a woman who is married to her permanent husband and the husband has had sexual intercourse with her whilst she was sane and she is able to have sexual intercourse with her husband.

Note -*Zina* committed by a *mosaneh* woman with a minor shall be punishable by *hadd* punishment of lashes.

**Article 84** -An old man or old woman who has committed *zina* while s/he was married [and meets the conditions of *ehsan* mentioned in art. 83], prior to being stoned to death, shall receive the *hadd* punishment of lashes.

**Article 85** -A recoverable divorce, before the *eddeh* period [waiting period during which a woman cannot remarry] has ended, does not exclude a man or woman from being regarded as *mosaneh* [art. 83]; but, in an irrecoverable divorce, they are regarded as non-*mohsan*.

**Article 86** -The *zina* of a man or a woman who has a permanent wife or husband, but due to travel, imprisonment or the like, s/he has no access to his wife or her husband, is not punishable by *hadd* punishment or stoning to death.

**Article 87** - If a married man commits *zina* prior to any sexual intercourse [with his wife], he shall be sentenced to *hadd* punishment of lashes and shaving his head, and banishment for one year.

**Article 88** -The *hadd* punishment for *zina* committed by a non-*mohsan* woman or man [who does not meet the conditions mentioned in art. 83] is one hundred lashes.

**Article 89** -If prior to the execution of a *hadd* punishment, *zina* is recommitted and the *hadd* punishments are the same, the *hadd* punishment shall not be doubled; but if the *hadd* punishments are of different types, for example the *hadd* punishment for some is lashes and for others is stoning to death, then, prior to the execution of stoning to death, *hadd* punishment of lashes shall be executed.

**Article 90** -When a woman or a man commits *zina* for several times and after each time she/he receives the *hadd* punishment, on the fourth occasion, s/he shall be sentenced to the death penalty.

**Article 91** -The execution of stoning to death or the death penalty shall not be executed during the period of pregnancy or lochia; and also after delivery if the child has no guardian and the

child's life is at risk, the *hadd* punishment shall not be executed. But if a guardian is found for the child the *hadd* punishment shall be executed.

**Article 92** -When execution of a *hadd* punishment of lashes to a pregnant or breast-feeding woman may cause harm to the fetus or the suckling baby, the execution of the *hadd* punishment shall be postponed until there is no fear of harm.

**Article 93** -If a sick person or a woman with excessive or undue menstruation is sentenced to the death penalty or stoning to death, the *hadd* punishment shall be executed, but if s/he is sentenced to *hadd* punishment of lashes, the execution of the sentence shall be postponed until the sick [person] has recovered and excessive menstruation has stopped.

Note -Menstruation may not prevent the execution of a *hadd* punishment.

**Article 94** -If there is no hope for the recovery of the ill person and the judge deems it appropriate that the *hadd* punishment must be executed; a bunch of one hundred twigs or lashes shall be used to whip the condemned only once, although not all of them may strike his/her body.

**Article 95** -If a person who is condemned to *hadd* punishment becomes an apostate or insane, the *hadd* punishment shall not be removed.

**Article 96** -The *hadd* punishment of lashes may not be executed in a very cold or very warm weather.

**Article 97** -The *hadd* punishment may not be executed in the territory of enemies of Islam.

#### **Section 4 -The procedure of execution of the *hadd* punishment:**

**Article 98** - If a person is sentenced to several *hadd* punishments, the arrangement of their execution shall be made in a manner not to prevent the execution of the other *hadd* punishments; therefore, if someone is sentenced to [both] lashes and stoning to death, first the *hadd* punishment of lashes shall be implemented followed by stoning to death.

**Article 99** -If the *zina* of a *mohsan* person [who meets the conditions mentioned in art. 83] is proved by his/her confession, the first stone shall be cast by the *Shari'a* judge followed by others; and, if the *zina* is proved by testimony of witnesses, first the witnesses shall cast the stones followed by the judge and then others.

Note -If the judge or witnesses do not attend [the stoning] or do not cast the first stone, it may not stop the execution of the *hadd* punishment and it must be executed anyway.

**Article 100** -The *hadd* punishment of lashes for a man who committed *zina* shall be executed while he is standing and only his private parts are covered. The lashes shall strike his body

severely, other than his head and face and private parts. The woman who committed *zina* shall receive lashes while sitting and her clothes are tied to her body.

**Article 101** -It is appropriate that the judge informs people of the time of execution of *hadd* punishment and it is necessary that not less than three pious people attend the execution of *hadd* punishment.

**Article 102** -For the purpose of stoning, the man shall be buried into a pit up to his waist and the woman up to her breast, and then s/he shall be stoned to death.

**Article 103** -If during the stoning, a condemned person flees from the pit, if his/her commission of *zina* was proved by testimony of witnesses, s/he shall be returned to the pit for the implementation of the stoning; but if *zina* is proved by his/her confession s/he shall not be returned.

Note -If a person who is sentenced to *hadd* punishment of lashes flees, s/he shall be returned for the execution of the *hadd* punishment anyway.

**Article 104** -The stones shall not be so big so as to kill the person by one or two strikes, neither shall it be so small that it cannot be called a stone.

**Article 105** -Although required to state the evidence that his knowledge is relied on, the judge may make a judgement, in both God's claims [*haqq-ol-lāh*] and people's claims [*haqq-on-nās*], according to his knowledge and execute the *hadd* punishment. Execution of *hadd* punishment in the cases where God's claims are violated shall not be subject to any personal request; however, when people's claims [private rights] are violated, the execution of the *hadd* punishment shall be subject to the request of the plaintiff.

**Article 106** -If *zina* is committed during sacred times such as religious feasts, the month of Ramadan, Fridays, or at holy places such as mosques, a *ta'zir* punishment shall be added to the *hadd* punishment.

**Article 107** -Presence of witnesses during the execution of *hadd* punishment of stoning to death is necessary; however, in the case of their absence, the *hadd* punishment may not be removed. But if the witnesses escape, the *hadd* punishment shall be removed.

## **Chapter 2 - *Hadd* punishment for sodomy (*livat*)**

### **Section 1 -Definition and reasons of *hadd* punishment for sodomy:**

**Article 108** -Sodomy (*livat*) is defined as sexual intercourse with a male, whether it takes place as penetration or *tafkhez* [rubbing penis between thighs].

**Article 109** -Both the insertive and receptive parties of sodomy shall be sentenced to *hadd* punishment.

**Article 110** -In the case of penetration, the *hadd* punishment for sodomy is the death penalty – the method for which is at the discretion of the judge.

**Article 111** -Sodomy shall result in the death penalty provided that both the insertive and receptive parties are mature, sane and free.

**Article 112** -If a mature man sodomizes a minor, the insertive party shall be sentenced to the death penalty; and the receptive party, if not coerced, shall receive up to seventy four lashes as *ta'zir* punishment.

**Article 113** -If a minor sodomises another minor, each shall receive up to seventy four lashes as *ta'zir* punishment, unless, one of them was coerced to commit sodomy.

## **Section 2 -Procedure of proving sodomy in court**

**Article 114** -The *hadd* punishment for sodomy shall be determined when the accused confesses four times before the judge.

**Article 115** -If the accused confesses less than four times, then it shall not result in *hadd* punishment, but he shall be sentenced to a *ta'zir* punishment.

**Article 116** - Confession is valid provided that the confessor is mature, sane, free and intended [to make the confession].

**Article 117** -The *hadd* punishment for sodomy shall be proved by the testimony of four just men who were eye-witnesses to the act.

**Article 118** -Sodomy shall not be proved by the testimony of less than four just men and in this case [i.e. testimony of less than four just men] the witnesses shall be sentenced to *hadd* punishment for *qazf* [false accusation of sexual offences].

**Article 119** -Testimony of women, whether alone or together with men, may not prove sodomy.

**Article 120** -The judge can make his judgement according to his knowledge which is obtained through customary methods.

**Article 121** -The *hadd* punishment for *tafkhez* [rubbing penis between thighs] committed by two men without penetration shall be one hundred lashes for each one.

Note -if the insertive party is a non-Muslim and the receptive party is a Muslim, the *hadd* punishment for the insertive party shall be the death penalty.

**Article 122** -If *tafkhez* and the like is repeated three times and after each time the *hadd* punishment is executed, on the fourth occasion the *hadd* punishment shall be the death penalty.

**Article 123** -If two men, who are not blood related, lay naked under the same cover without any necessity, each one shall be punished by up to 99 lashes as *ta'zir*.

**Article 124** -If as a result of lust, a person kisses another person, he shall be punished by up to 60 lashes as *ta'zir*.

**Article 125** -If a person who has committed sodomy or *tafkhez* and the like, repents prior to the testimony of witnesses, the *hadd* punishment shall be removed; but, if he repents after the testimony the *hadd* punishment shall not be removed.

**Article 126** -If sodomy and *tafkhez* and the like are proved by the confession of the person, and he repents after confession, the judge may request his pardon from the Leader.

### **Chapter 3: *Musaheqeh* [sex between women]**

**Article 127** - *Musaheqeh* is sexual activity between women by their genitals.

**Article 128** -The procedure for proving *musaheqeh* is the same as that for sodomy.

**Article 129** -The *hadd* punishment for *musaheqeh* is one hundred lashes for each party.

**Article 130** -The *hadd* punishment for *musaheqeh* shall be given to a person who is mature, sane, free and intended.

Note -Regarding the *hadd* punishment for *musaheqeh*, there is no difference between the active or passive parties or between Muslims and non-Muslims.

**Article 131** -If *musaheqeh* is repeated three times and after each time the *hadd* punishment is implemented, the *hadd* punishment on the fourth occasion shall be the death penalty.

**Article 132** -If the person that committed *musaheqeh* repents prior to the testimony of the witnesses the *hadd* punishment shall be removed; but, if the confession is made after the testimony, the *hadd* punishment shall not be removed.

**Article 133** -If *musaheqeh* is proved by confession of the actor and she repents after the confession, the judge may request her pardon from the Leader.

**Article 134** -If two women, who are not blood related, lay naked under the same cover without any necessity, they shall be punished by less than one hundred lashes as *ta'zir*. If their act is repeated and after each time the *ta'zir* punishment is executed, on the fourth occasion they shall receive one hundred lashes.

#### **Chapter 4 -Procuring/Pandering**

**Article 135** -Procuring/pandering is defined as [the act of] connecting or associating two or more people together in order to commit *zina* or sodomy.

**Article 136** - Procuring/pandering shall be proved by confessions given twice provided that the confessor is mature, sane, free and intended [to make the confession].

**Article 137** - Procuring/pandering shall be proved by the testimony of two just men.

**Article 138** -The *hadd* punishment for procuring/pandering is seventy five lashes and banishment from [his] area for a period of 3 months to one year for men, and it is only seventy five lashes for women.

#### **Chapter 5 -Qazf [false accusation of sexual offences]**

**Article 139** -Qazf is defined as a false accusation of sodomy or *zina* against someone else.

**Article 140** -Hadd punishment for *qazf*, whether for a man or woman, is eighty lashes.

Note 1- The execution of a *hadd* punishment for *qazf* is subject to the request of the [falsely] accused person.

Note 2 -When a person accuses someone else with acts other than *zina* or sodomy, such as *musaheqeh* or other religiously prohibited acts, s/he shall be punished with up to 74 lashes.

**Article 141** -Qazf must be clear and unambiguous and the accuser must be aware of the meaning of the word, even though the listener does not know the meaning.

**Article 142** -If a person tells his/her legitimate child 'you are not my child', s/he shall be sentenced to the *hadd* punishment for *qazf*. Accordingly, if a person tells someone else's legitimate child 'you are not his/her child', s/he shall be sentenced to *hadd* punishment for *qazf*.

Note - In respect to the cases mentioned in the above article, if there is an indication that *qazf* is not intended, then, the *hadd* punishment shall not be given.

**Article 143** -If a person tells another person 'you have committed *zina* with that woman or sodomy with that man,' this shall be regarded as *qazf* to the addressee; and, the accuser shall be sentenced to the *hadd* punishment for *qazf*.

**Article 144** -If a person, intending to accuse another person of *zina*, tells him that his wife or mother or sister is a prostitute, the accuser, in regards to the accused person [i.e. the wife or

mother or sister], shall be sentenced to the *hadd* punishment for *qazf*; and, in regards to the addressee who has been hurt by the curse, the accuser shall be sentenced to up to 74 lashes.

**Article 145** -Any curse that hurts the listener and is not considered as *qazf*, for instance when a person tells his wife 'you were not a virgin', shall result in punishment of the accuser to up to 74 lashes.

**Article 146** -*Qazf* shall result in *hadd* punishment when the person who commits *qazf* is mature, sane, free and intended, and the person who is the subject of the *qazf* is also mature, sane, Muslim and chaste. If the person who commits *qazf* or the person who is the subject of the *qazf* lacks one of these conditions, the *hadd* punishment for *qazf* shall not be given.

**Article 147** -If a discerning minor commits *qazf* against another person, at the discretion of the judge, s/he shall be chastised. If a mature and sane person commits *qazf* against a minor or a non-Muslim s/he shall be sentenced to up to 74 lashes as *ta'zir*.

**Article 148** -If the person who has been subject to a *qazf* publicly commits what is attributed to him/her, the person who commits the *qazf* shall not be punished as *hadd* or *ta'zir*.

**Article 149** -If relatives commit *qazf* against each other, they shall be sentenced to the *hadd* punishment.

Note -If a father or parental grandfather commits *qazf* against his son [or grandson] he shall be punished as *ta'zir*.

**Article 150** -When a man commits *qazf* against his deceased wife, and the woman has no heir but that man's child, the *hadd* punishment shall not be given; but, if the woman has an heir other than that man's child, the *hadd* punishment shall be given.

**Article 151** -When a person commits *qazf* against several people separately, s/he shall receive *hadd* punishment for the *qazf* of each person separately, whether the victims ask for *hadd* punishment together or separately.

**Article 152** -When a person, using words, commits *qazf* against several people, and if each victim asks for *hadd* punishments separately, s/he shall be sentenced to separate *hadd* punishments for the *qazf* of each one, but if they ask for the *hadd* punishment together, s/he shall be sentenced to one *hadd* punishment.

**Article 153** -*Qazf* shall be proved when the accused confesses twice or through the testimony of two just men.

**Article 154** -The confession is valid provided that the confessor is mature, sane, free and intended [to make the confession].

**Article 155** -Lashes shall be struck moderately on the customary clothes.

**Article 156** -Lashes shall not be struck on the face, head or private parts of the person condemned of *qazf*.

**Article 157** -When a person commits *qazf* against other people on several occasions and receives the *hadd* punishment after each time, on the fourth occasion s/he shall be sentenced to the death penalty.

**Article 158** -If the person who has committed the *qazf*, after receiving the *hadd* punishment, insists what he said was right, he shall be sentenced to up to 74 lashes as *ta'zir*.

**Article 159** -If [a person] commits *qazf* against another person with the same accusation, such as *zina*, several times, only one *hadd* punishment shall be given.

**Article 160** -If [a person] commits *qazf* against another person with different accusations such as *zina* and sodomy, several *hadd* punishments shall be given.

**Article 161** -The *hadd* punishment for *qazf* shall not be given in the following cases:

- (a) When the victim confirms the person who committed the *qazf*.
- (a) When a required number of witnesses testify for the “correctness” of the subject of the *qazf* (i.e. that the *qazf* was not a lie or empty accusation).
- (b) When the victim of the *qazf*, or all his/her heirs, forgive the person who committed the *qazf*.
- (c) When a man commits *qazf* against his wife and then carries out *le'ān* [imprecation; a specific religious procedure in which a husband accuses his wife of committing *zina* and imprecates himself if he lies. As a result their marriage shall be terminated].

**Article 162** -When two persons commit *qazf* against each other, whether their accusations are similar or different, the *hadd* punishment shall not be given and each shall receive up to 74 lashes as *ta'zir*.

**Article 163** -The *hadd* punishment for *qazf*, if neither executed nor forgiven, shall be transferred to the heirs [after the victim's death].

**Article 164** -The right to request the *hadd* punishment for *qazf* shall be transferred to all heirs but the wife or husband; and every one of the heirs can request the *hadd* punishment, although the rest of the heirs have forgiven.

## **Chapter 6 -Hadd punishment for [consumption of] intoxicants**

### **Section 1 -Reasons for the *hadd* punishment for [consumption of] intoxicants**

**Article 165** -Consuming an intoxicant shall result in *hadd* punishment, whether [the amount] is a little or a lot, intoxicated or not, pure or mixed, provided that the mixture does not exceed a certain limit so that it is not intoxicating any longer.

Note 1 -Beer has the same punishment as that of wine, even if it is not intoxicating; and its consumption is punishable by the *hadd* punishment.

Note 2 -Consumption of a grape juice which is fermented whether spontaneously or by fire or sunlight or the like, is prohibited but is not punishable by the *hadd* punishment.

## **Section 2 -Conditions of the *hadd* punishment for [consumption of] intoxicants**

**Article 166** -The *hadd* punishment for consumption of intoxicants shall be given to a person who is mature, sane, free and aware that [the liquor] is an intoxicant and prohibited.

Note 1 -If the person who has consumed the intoxicant claims that s/he was not aware of the matter of law or fact, and the truth of his/her claim is plausible, s/he shall not be sentenced to the *hadd* punishment.

Note 2 -When a person is aware that consumption of an intoxicant is prohibited and consumes it, s/he shall be sentenced to the *hadd* punishment, even though s/he is not aware that its consumption is punishable by the *hadd* punishment.

**Article 167** -In emergency cases, if a person consumes a necessary amount of intoxicants to save his/her life or to cure an acute illness, s/he shall not be sentenced to the *hadd* punishment.

**Article 168** -If a person confesses twice to the consumption of intoxicants, s/he shall be sentenced to the *hadd* punishment.

**Article 169** -A confession is valid provided that the confessor is mature, sane, free and intended [to make the confession].

**Article 170** -If the consumption of intoxicants is proved by testimony, it shall be proved only by the testimony of two just men.

**Article 171** -If one of the two just men testifies that a person has consumed an intoxicant and the other testifies that s/he has vomited an intoxicant, the *hadd* punishment shall be given.

**Article 172** -There must be no discrepancy between the testimonies in time or place and the like, but if one [of the witnesses] testifies for the consumption of the intoxicant, and the other testifies for the consumption of a specific sort of intoxicant, the *hadd* punishment shall be given.

**Article 173** -Confession or testimony shall result in the *hadd* punishment provided that there is no reasonable possibility that the consumer is excused.

**Article 174** -The *hadd* punishment for consumption of intoxicants, whether for a man or a woman, is eighty lashes.

Note- Non-Muslims shall be sentenced to eighty lashes only if they publicly consume intoxicants.

**Article 175** -Any person who makes, supplies, buys, sells, transports and offers intoxicants shall be sentenced to between 6 months and 2 years' imprisonment; and if as a result of encouragement, allurement or trick, prepares means of consumption [of intoxicants], s/he shall be considered as an accessory to the consumption of intoxicants and shall be sentenced to up to 74 lashes.

### **Section 3-The procedure of execution of the *hadd* punishment**

**Article 176** -The man shall receive the lashes whilst standing and only his private parts are covered; and the woman whilst sitting and her clothes are tied to her body.

Note -the lashes shall not strike the face, head or private parts.

**Article 177** - The *hadd* punishment shall be executed when the convict is in a sober state.

**Article 178** -If a person consumes intoxicants several times but the *hadd* punishment is not executed, only one *hadd* punishment shall be given for all of them.

**Article 179** -If a person consumes intoxicants several times and receives the *hadd* punishment after each time, on the third occasion s/he shall be sentenced to the death penalty.

**Article 180** -If the person condemned to the *hadd* punishment becomes insane or an apostate, s/he shall not be exempted from the *hadd* punishment.

### **Section 4 -Conditions of nullification or pardon of the *hadd* punishment for [consumption of] intoxicants**

**Article 181** -If a person who has consumed an intoxicant repents prior to the testimony [of witnesses] the *hadd* punishment shall be removed, but repenting after the testimony shall not remove the *hadd* punishment.

**Article 182** -If a person repents after confessing to consumption of an intoxicant, the judge can either execute the *hadd* punishment or request for his/her pardon from the Leader.

### **Chapter 7 -*Moharebeh* and corruption on earth [*efsad-e-fel-arz*]**

## **Section 1 -Definitions**

**Article 183** -Any person who resorts to weapons to cause terror and fear or to breach public security and freedom shall be considered as a *mohareb* and corrupt on earth [*mofsed fel-arz*].

Note 1 -A person who draws weapons on people, but due to inability does not cause fear to anyone shall not be considered as a *mohareb*.

Note 2 -If a person draws weapons on one or several specific persons because of personal enmities, and his/her act is not against the public, [s/he] shall not be regarded as a *mohareb*.

Note 3 -There is no difference between firearms and other weapons.

**Article 184** -Any person or group that resorts to weapons in order to fight with *moharebs* or to eliminate corruption on earth shall not be considered as a *mohareb*.

**Article 185** -If an armed robber or a highway robber, by resorting to weapons, disturbs public security or the security of roads, and causes fear and terror, shall be considered as a *mohareb*.

**Article 186** -All the members and supporters of a group or an organized association which have waged armed rebellion against the Islamic State, whilst the core of that organization or group exists, shall be regarded as *moharebs* provided that they know the stance of that group or organization and have effective activities and efforts in support of its aims; even though, they are not engaged in the military subdivision.

Note -A united front composed of various groups and individuals shall be regarded as one [organization].

**Article 187** -Any person or group that plots to overthrow the Islamic State and to that end gathers weapons and explosives, as well as those individuals who knowingly and freely provide effective financial facilities or means and weapons to them, shall be regarded as *mohareb* and corrupt on earth.

**Article 188** -If an individual nominates him/herself for one of the senior posts of the coup d'etat government and his/her nomination is in some way effective in the success of the coup d'etat, s/he shall be considered as a *mohareb* and corrupt on earth.

## **Section 2 -Procedure of proving *moharebeh* and corruption on earth**

**Article 189** -*Moharebeh* and corruption on earth shall be proved by one of the following methods:

- (a) By one time confession provided that the confessor is mature, sane and his/her confession is made intentionally and freely.

(b) By testimony of only two just men.

Note 1 -Testimony of people who have been attacked by the *moharebs* shall not be accepted in favour of each other.

Note 2 -If, out of some people who have been attacked by the *moharebs*, some testify that no harm was done to them, their testimonies shall be accepted against the others.

Note 3 -Testimony of people who have been attacked, if made in order to prove that the attackers are *moharebs*, provided that it is not a personal claim, shall be accepted.

### **Section 3 -Hadd punishment for *moharebeh* and corruption on earth**

**Article 190** -Hadd punishment for *moharebeh* and corruption on earth is one of the following four [punishments]:

- (a) The death penalty.
- (b) Hanging on gallows.
- (c) Amputation of right hand and then left foot.
- (d) Banishment.

**Article 191** -The judge has the discretion of choosing one of the four punishments, whether the *mohareb* has killed or injured someone or has taken someone's property or has committed none of these.

**Article 192** -The *hadd* punishment for *moharebeh* and corruption on earth may not be nullified by forgiveness of the claimant.

**Article 193** -The banished *moharebs* must remain under observation and shall not have contact or associate with others.

**Article 194** -In any case, the length of the banishment shall not be less than one year even though [the *mohareb*] has repented after arrest; and if s/he does not repent s/he shall remain banished.

**Article 195** -Crucifixion of a *mohareb* and a corrupt on earth shall be executed as follows:

- (a) Method of tying shall not kill him/her.
- (b) S/he shall not remain crucified for more than three days, but if they die within three days, s/he can be taken down [from the cross].
- (c) If s/he remains alive after three days [s/he] shall not be killed.

**Article 196** -Amputation of the right hand and left foot of a *mohareb* and a corrupt on earth shall be executed by the same method as for the *hadd* punishment for theft.

## Chapter 8 -*Hadd* Punishment for theft

### Section 1 -Definition and conditions:

**Article 197** -Theft is defined as stealing someone else's property secretly.

**Article 198** -Theft shall result in *hadd* punishment provided that all the following conditions are met:

- (1) The thief is considered mature in accordance with Islamic Jurisprudence.
- (2) Whilst committing the theft the thief was sane.
- (3) The thief had not committed the theft as a result of threat or coercion.
- (4) The thief intended [to commit the theft].
- (5) The thief is aware that the property belongs to someone else.
- (6) The thief is aware that stealing it is religiously prohibited.
- (7) The owner placed the property in *herz* [a secure place]
- (8) The thief, either individually or in association with someone else, breached the *herz* [the secure place].
- (9) The minimum value of the stolen property is equal to or more than 4.5 *nokhod* [a traditional unit of weight] of coined gold [equal to 0.87 g] on each occasion.
- (10) The thief was not forced by the circumstances [*moztar*].
- (11) The thief was not the father of the owner.
- (12) The theft was not committed in a famine year.
- (13) The *herz* [the secure place] and the place of keeping the property have not been usurped from the thief.
- (14) The thief had taken the property in order to steal it.
- (15) The property is kept in an appropriate *herz* [secure place].
- (16) The property is not the property of the government or an endowment and the like, which does not have a private owner.

Note 1 -*Herz* is a place where the property is kept in order to be secure from theft.

Note 2 -If a person takes out the property from the *herz* by a non-discerning child or an insane person or an animal and the like, s/he shall be regarded as the principal to the offence.

Note 3 -If a thief is arrested prior to taking out the property from the *herz*, s/he shall not be sentenced to the *hadd* punishment.

Note 4 -If a thief, after committing the theft, returns the property to the owner, the *hadd* punishment shall not be given.

## **Section 2 -Procedure of proving theft**

**Article 199** -The theft which is punishable by the *hadd* punishment shall be proved by one of the following ways:

- (1) Testimony of two just men.
- (2) Confessing to the theft twice before the judge, provided that the confessor is mature, sane, free and intended [to make the confession].
- (3) By the knowledge of the judge.

Note -If the thief confesses one time before the judge, [the thief] must return the property to its owner but s/he shall not be sentenced to the *hadd* punishment.

## **Section 3 -Conditions of execution of the *hadd* punishment**

**Article 200** -The *hadd* punishment shall be executed provided that the following conditions are met:

- (1) The owner of the property complains to the judge.
- (2) The owner of the property has not forgiven the thief prior to making the complaint.
- (3) The owner of the property has not gifted the property to the thief prior to making the complaint.
- (4) The stolen property is not entered into the thief's ownership through purchase and the like prior to the proof of offence before the judge.
- (5) The thief has not repented prior to proof of the offence.

Note -The *hadd* punishment for theft, after the offence is proved, shall not be removed due to the repentance for the theft, and the thief may not be pardoned.

## **Section 4 -The *hadd* punishment for theft**

**Article 201** -The *hadd* punishment for theft is as follows:

- (a) On the first occasion, amputation of the full length of four fingers of the right hand of the thief in such a manner that the thumb and palm of the hand remain.
- (b) On the second occasion, amputation of the left foot from the end of the knob [on the foot] in such a manner that half of the sole and part of the place of anointing [during ablution] remain.
- (c) On the third occasion, life imprisonment.
- (d) On the fourth occasion, the death penalty even though the theft is committed in prison.

Note 1 -Multiple thefts, until the *hadd* punishment is not implemented, shall be considered as one occasion of theft.

Note 2 -An accessory to the theft punishable under Article 198 of this law shall be sentenced to between one to three years' imprisonment.

**Article 202** -If the fingers of a thief's hand are amputated and after the execution of the *hadd* punishment, it is proved that he had previously committed another theft, his/her left foot shall be amputated.

**Article 203** -If a theft does not meet the conditions of the *hadd* punishment, but it disturbs the public order or causes fear or provokes the thief or others then this is punishable by between one to five years' imprisonment, even if there is no private plaintiff or if the plaintiff has forgiven [the thief].

Note -Accessory to theft shall result in six months to three years' imprisonment.

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