

## SLAMIC REPUBLIC'S PENAL CODE (1982)

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Penal laws form part of the governing rules and regulations in every social and legal system. Islam, which is a perfect code of life and whose objective is perpetual happiness of all mankind, has not neglected defense of the individual and the society against crime. It recognizes that crime is the worst impediment to moving towards absolute perfection and ascension towards God. The goal of Islam is the evolution of the perfect man and the establishment of the righteous state.

Contrary to schools of thought that consider human beings corrupt by nature and by instinct, in Islam man by nature is a being seeking righteousness, capable of both correction and reform. Therefore, Islam sanctions preventive measures to dry up the economic, social, and cultural roots of crime thereby restoring the criminal to his previous innocent nature through proper training.

Islam reserves punishment exclusively for exceptional cases, because punishment has mostly a negative and superficial role in the reformation of the criminal. This is why Islam generally concerns itself with the correction of the criminal rather than the necessity for exploring the crime by means of confession or investigation, collecting evidence and proof of the attribution of the crime to the offender. Immediately after the commission of every offense, and after guilt is established, the prosecution of the offender is arranged. If the judgment contains severe punishment without taking into account the individual's material and moral circumstances, and the sentence is executed easily with no hesitation, then the sentence may be suspended.

Islam, thus, considers punishment the last resort and not the primary means for combating crime. The following are the authorities in support of this statement.

(a) Textual authorities relating to penal laws in the moral and instructional fields in the -Book and Sunnah are quite few. Likewise, in the works of Muslim scholars we find very little discussion on matters relating to punishment as compared to the exercises relating to the purification of the soul and edification of the self.

) b) Investigation and gathering information, except in public offenses, are forbidden and prohibited. In circumstances where an offense is of an individual, private nature and has not been committed publicly, its disclosure (with intent to cause the offender penalization) is not only disapproved of, but considered tantamount to the dissemination of vile deeds and therefore a sin. In case the person divulging it fails to prove his allegation, through tediously gathering legal evidence, he is sometimes liable to be sentenced to severe punishment.

A culprit is himself required to abstain from disclosing what he might have committed in private, even though by disclosure he desires to receive the divinely prescribed punishment (Hadd). Rather, he is recommended to make repentance between himself and God.

Even in case of public offenses, the culprit should not bring his offense to the knowledge of others as long as it is possible to make amends without putting himself in disgrace.

Likewise, it is the duty of a judge (as far as he can and as long as it does not lead to emboldening others in the commission of the crime) to prevent the accused from making a clear confession of guilt (of a misdemeanor) by suggesting excuses to the accused which he may put forward in his defense. For example, the judge may ask the accused whether or not he was motivated by indigence or necessity, and whether or not he knew the punishment prescribed for the act, so that the accused may repent for what he has done, and thus may cease to be liable for the Hadd.

(c)-On the basis of strong religious authorities, the emergence of corruption and commission of crimes among the masses is the product of the corruption of the privileged classes, namely, the rulers and the clergy. We find in the tradition of the holy Prophet, peace be upon Him, the following words :

"There are two classes in my community of followers. If they are virtuous, my community shall be virtuous; and if they are corrupt, my community shall be corrupt." He was asked as to which are those classes. In reply he said: "They are the jurists and the rulers."

So also Imam (Khomeini) has clearly declared:

"If the learned become corrupt, the whole world becomes corrupt. Since the learned are apparently representatives of the Imam, and if, God forbid, they become corrupt, they would corrupt all the

classes of society. On the other hand, if they are virtuous, they would make the whole world virtuous. It is the observation of eye-witnesses that in every part of the world where the learned were virtuous and honest, the general masses were also virtuous and honest." (Vide Sahifa-i-Noor, Vol. 11, p. 6 and Vol. 12 pp. 213 and 215)

As a result of these observations, in Islam reform begins in the privileged classes, and before their reform is accomplished, it is quite unreasonable to expect any reform in the lower strata of society. Therefore, it is far from the standards of equity and justice to punish the latter for deviation from the right path.

This is why we find in certain traditions that it is undesirable to enforce the penal laws as long as the rulers are not righteous. There is so much emphasis on this point that some jurists are led to suppose that during the Period of Occultation (ghaybat) or as long as the reins (of the government) are not in the hands of any of the twelve Imams, the offenders are not liable to any punishment. But the purpose of those traditions is -and Allah knows better- that if a society has no just and righteous government to maintain economic and social justice as well as impart proper education and sound instruction, it would not be judicious to punish persons accused of committing a number of offences, as they would have fallen into the abyss of crime due to economic inequities and social circumstances. Thus the two important elements of intention and knowledge, which are a prerequisite for proving a crime, may not be found to a sufficient extent.

In view of this fact, there is little justification for inflicting punishment or adopting violent measures against the weaker sections of society or those who are economically, socially or educationally backward. Those forced to commit a crime or a misdemeanor under the pressure of uncontrollable circumstances (since they are not responsible for creating those circumstances) are, therefore, acquitted of the liability.

(d)-Although comparatively severe punishment has been prescribed by the Shari'ah for some offenses, it is quite difficult to establish them. Thus, while fear of severe punishment may prove to be an effective deterrent (there would be less people receiving the punishment) after the charge is established, there are strict conditions with regards to issuing the sentence and applying the offender's punishment, which further reduces the number of persons falling in the category of the convicts.

After issuing the sentence, there may be several circumstances which may delay the execution or suspend the sentence.

According to the jurists:

"Caution must be observed in case of execution of Hudoood, so that whenever there is even a slight amount, the Hadd should not be inflicted."

We have the following rule contained in some of reliable traditions:

"As far as possible, do not execute the Hadd on Muslims, because it would indeed be better for a ruler to err in forgiving a culprit rather than err in punishing an innocent person."

This is a translation of the collection of penal laws amended by the Committee for Legal Affairs of the Islamic Consultative Assembly (Parliament) of Iran, following the approval of the Council of the Guardians of the Constitution. This English translation is designed to introduce Iran's Islamic laws to those who are unable to read Persian and Arabic legal texts. English readers are encouraged to use the Glossary for definitions.

Let us hope that some day the Islamic laws governing political, economic, social, and educational life will give new energy to the society. That these laws shall be so comprehensively and effectively enforced, in the Islamic societies, that it will be possible to enforce the Islamic penal laws which are dependent on the enforcement of the preceding laws.

Above all, let us look to a time when the Islamic morality shall purify and illumine the hearts of Muslims in such a way that there may be no need to apply the Islamic penal laws and they may be rendered redundant.

The reins of all affairs are in His hand.

And all seekers of help seek help from Him!

DIRECTOR

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ISLAMABAD

## SYSTEM OF TRANSLITERATION

The following system of transliteration is the English translation of the Islamic Penal Code. With the exception of a few Persian words, we have generally followed the system of Arabic pronunciation while transliterating the technical legal terminology.

### **ISLAMIC PENAL CODE\***

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Passed by the Committee for Judicial Affairs of the Islamic Consultative Assembly on July 12, 1982.

## Chapter One General Provisions

### Section 1

The Penal Code defines various offenses and their punishments, plus, it provides steps to be taken for the safekeeping and correction of the offender.

### Section 2

Every commission or omission of an act, punishable by law or involving security or correctional measures, is considered an offence; and nothing shall be deemed an offense unless there is some punishment, security or correctional measures provided by the law.

### Section 3

The Penal Code applies to all the persons who commit an offense within the territorial jurisdiction of the Islamic Republic of Iran including land, sea, and air, except where some other procedure has been provided by the law.

When part of an offense has been committed in Iran, and its conclusion takes place outside the territorial jurisdiction of Iran, or vice versa, or when part of an offense is committed in Iran and its result is (also) takes place in Iran, the offense shall be considered to have been committed in Iran.

Every Iranian or foreigner who commits any of the following offenses outside the territorial jurisdiction of Iran shall be punished according to the Penal Code of Islamic Republic of Iran:

An act against the Government of Islamic Republic of Iran, internal or external security, territorial integrity or independence of the Islamic Republic of Iran;

Forgery of an Order, hand-writing, stamps or signature of the Leader (Rahbar) or the President of the Republic, or making use thereof.

Forgery of the official documents of Prime Minister, President of the Islamic Consultative Assembly, Council of Guardians, or Supreme Judicial Council, Chief Justice of the Supreme Court, Attorney General or any Minister, or making use thereof.

Forgery of the currency of Iran, or documents of a Bank of Iran, such as bills of exchange accepted by a Bank, checks issued by a Bank, documents duly guaranteed by a Bank, forgeries of Treasury documents, credit documents issued or guaranteed by the government, imitation or counterfeiting in any form of the local currency or coins.

Every offense by government employees or foreign nationals employed by the Government of the Islamic Republic of Iran committed in the capacity of their respective positions or posts. Likewise, every offence committed by employees of the diplomatic or consular services of the Government of Iran who enjoy diplomatic immunity shall be governed by the provisions contained in part B above."

In all cases other than those mentioned under parts B and C above, every Iranian who commits an offense outside Iran and is found in Iran shall be punished in accordance with the Penal Code.

In cases when, according to a special law or international treaties, the offender is prosecuted where he is arrested, if he is arrested in Iran, he shall be prosecuted and punished in accordance with the laws of the Islamic Republic of Iran.

#### Section 4

A convict shall return the property obtained through the commission of an offence to its owner, as long as the property is still there. However, when the property is not there, the convict shall be liable to pay its equal, and shall also be liable to pay the damages in consequence of the offence.

#### Section 5

In case of issuance of an Order for non-prosecution or staying prosecution, the inspector or Public Prosecutor shall decide what should be done with the property which was the proof of the offence, obtained in consequence of the offence or was used or meant to be used during the commission of the offence, whether it is to be returned (to its owner), or confiscated or destroyed. As long as the case is pending with the Inspector or Public Prosecutor, he is also bound to issue necessary Orders for the return of the above articles or property on the request of the interested party, keeping in view the following conditions:

1. It is not necessary to detain all or some of the articles or property in the office of the Inspector or Public Prosecutor.

2. The articles or property are unclaimed.

3. The articles or property do not fall under the category of articles or property which must be confiscated or destroyed. In all criminal cases the court, while issuing an Order or decree, or thereafter, irrespective of the Order or decree being in respect of conviction, acquittal or staying the prosecution of the accused, shall also issue a special order regarding the articles or property which was the proof of the offence, obtained in consequence of the offence, or was used or meant to be used, and specifically mentioned therein whether the articles or property are to be returned, confiscated or destroyed.

Explanation 1. The party affected by decree of the Inspector or Public Prosecutor, or a court decree or Order filed in any of the criminal courts against their verdict with respect to the articles or property mentioned in this Article and request for the review thereof, although a complaint may not lie against the decree or Order of the Court in a criminal case.

Explanation 2. When property, whose protection requires an undue expenditure for the government, or whose detention may cause its destruction or a gross loss in value, and when it is unnecessary for the office of the Public Prosecutor to preserve the property, or if the property is perishable or prone to quick destruction, it shall be sold according to the situation, by the order of the Public Prosecutor or the court, and the sale proceeds deposited with the treasury of the court until there is final decision in their regard.

## Section 6

The punishment, security, and correctional measures should be in accordance with a law enacted prior to the commission of an offence. No punishment shall be awarded for the commission or omission of an act in accordance with a law passed subsequent to the act. In case, however, a law is framed subsequent to the commission of an offence which involves mitigation or abolition of the punishment or is favorable to the offender, it shall be applicable to the offences which were committed before the law was framed and in whose case no final judgment has been issued by the court. In case a final and binding judgment has been issued in accordance with the previous law, action shall be taken according to the following procedure:

1. When an act, which was considered an offence according to the previous law but is not considered so in the subsequent law, the final judgment shall not be executed, and in case it is being executed, its execution shall be suspended. In these two cases as well as in cases when the judgment has already been executed, no penal consequences shall take effect. These provisions shall not apply to the laws framed for a temporary period or for special cases.

2. In case the subsequent law involves remission in the punishment, the convict may apply for the revision of the judgment by the court. In any case, the subsequent order shall not embody a punishment more severe than the previous one.

Explanation. When the punishment for an offence in accordance with a subsequent law is changed to security and correctional measures, the sentence shall be confined to such measures.



## Chapter Two - Crimes and Punishments

### Section 7

Punishments are divided into four classes according to the types of crimes:

1. Hudood

2. Qisas

3. Diyat

4. Ta'zeerat

### Section 8

Hudood are the punishments whose nature and amount have been prescribed by the Shari'ah.

### Section 9

Qisas is the punishment to which an offender is sentenced, and which is equivalent to his offense.

### Section 10

Diyat is the monetary compensation prescribed for an offence by the Shari'ah.

### Section 11

Ta'zeer is the chastisement (ta'deeb) or punishment ('Uqoobat) whose nature and amount has not been prescribed by the Shari'ah, and it has been left to the discretion of the judge, such as imprisonment, fine, or lashes which are more lenient than the amount of Hadd.

### Chapter Three - Punishment and Security, Correctional, Secondary and Supplementary Measures

#### Section 12

The term of all prison sentences shall begin the day the final and executable judgment is given. But the time the convict spent detained after he was first arrested and before the judgment was issued may be effective in the remission of the term of Ta'zeer sentence.

#### Section 13

The mode of execution of the sentences for punishment and the nature of the imprisonment shall be the same as prescribed in the Criminal Procedure Code and other relevant laws and Regulations. The necessary Rules (for carrying these laws into effect) shall be framed by the Supreme Judicial Council and approved by the Cabinet.

#### Section 14

Every person who has been given a Ta'zeer sentence for the commission of a voluntary offence may be deprived of his civil rights for a time in order to supplement the Ta'zeer sentence, or the court may forbid him to reside at a certain place or force him to reside at a certain place.

Explanation. Depriving a person of his civil rights and forcing him to reside at a certain place shall be for a fixed period of time only and proportionate to the offence.

### Chapter Four - Commencement of an Offence

## Section 15

When a person intends to commit an offence and in fact begins to commit it, but due to circumstances beyond his control, does not complete his act and the offence does not take place, when the acts or steps the person has initiated fall under the category of an offence, the person shall be liable to the punishment for only that offence, otherwise he shall be given a correctional punishment (ta'deeb).

Explanation. Correctional punishment (ta'deeb) means a punishment from the category of Ta'zeer which the court considers appropriate to the circumstances of the criminal.

## Section 16

Mere intention to commit a crime and performing acts or steps which serve as introduction to the crime, but have no direct connection with the commission of the crime, shall not be treated as commencement of a crime, and shall not be punishable by law.

## Section 17

A person who starts to commit a crime but subsequently stops of his own accord, shall not be liable to punishment for that crime.

## Section 18

The commencement of a crime is punishable only when it is specifically mentioned as such in the law.

## Chapter Five - Recurrence of a Crime

## Section 19

When a person who has been given a Ta'zeer sentence by the court, commits the same offence again after the execution of the sentence, the court, may enhance the punishment.

Explanation. When, at the time of passing sentence, the court has no knowledge about the previous convictions of the offender, but obtains that knowledge afterwards, the Public Prosecutor may inform the court who has passed sentence, and if the convictions are established, the court may take action in accordance with the provisions of the preceding section.

## Chapter Six - The Abettors Land Accessories to a Crime

### Section 20

Every person who, with due knowledge and information, helps another commit any punishable crime, and the act of each of them together contributes to the commission of the crime, whether their respective acts may or may not be sufficient for the commission of the crime, and whether the effects of their respective acts may be equal or different, he shall be considered an abettor to the crime and shall be liable to the punishment of a person who independently commits the crime. When crimes are committed involuntarily taking place by mistake or misadventure of two or more persons, the punishment for each of them shall be the same as one given to a person committing the crime independently. When one person's participation and independent contribution to a crime is less than others, the court may mitigate the sentence in proportion to the effect of his/her respective act.

### Section 21

In cases of punishable crimes, the following persons shall be considered abettors to the crime and liable to punishment.

1. Every person who incites, persuades, threatens, or entices another to decide to commit a crime, or through intrigue, deception or trickery causes the commission of a crime.
2. Every person who, with due knowledge and information, supplies the means for committing a crime, or, with due knowledge of the intention of the person committing the crime, shows him the way to commit the crime.

3. Every person who, with due knowledge and intention, facilitates the commission of a crime.

Explanation. In order to prove abetment to a crime there must be existence of unity of purpose, precedence or coincidence of the acts of the abettor and the person actually committing the crime.

#### Section 22

When the person committing the crime cannot be prosecuted and punished due to legal considerations, or the execution of his sentence is suspended due to legal considerations, it shall have no effect in respect of the accessory to the crime.

#### Section 23

Leadership of a gang of two or more persons in the commission of a crime, whether the act is that of an abettor or an accessory to the crime, may be one of the causes of enhancement of punishment.

### Chapter Seven - Plurality of the Crime

#### Section 24

In a case of a plurality of punishable offences, where a single act falls under the category of several crimes, the sentence awarded shall be the punishment for the crime with the most severe punishment.

#### Section 25

In a case of plurality of crimes, when the crimes committed are different, separate punishment shall be awarded for each crime. When the crimes are not different, a single punishment shall be given, though in such case the plurality of the crimes may be one of the causes for enhancement of the

punishment. If the aggregate of the crimes committed falls under the category of a particular crime under the law, the offender shall be liable to the punishment provided for that crime.

Explanation. The law for the plurality of crimes in case of Hudood, Qisas and Diyat shall be the same as provided in the relevant Chapters.

## Chapter Eight - The Scope of Legal Liability

### Section 26

Children committing an offence enjoy exemption from legal liability. The responsibility for their correction under the supervision of the court rests with their guardian, and, when appropriate, with the Children Reform and Training Centre.

Explanation 1. A child is one who has not attained to the legal age of puberty.

Explanation 2. When a minor commits a murder, injury or battery his/her 'Aqilah (or close relatives) shall be liable for compensation, but when a minor is responsible for loss of property of other persons, the child shall be personally liable for compensation, and its payment shall be the liability of the child's guardian.

Explanation 3. When, in case of grave offences, corporal chastisement is considered necessary for the correction of the child committing the offence, the chastisement shall be inflicted in a way that it may not incur the liability of Diyat.

### Section 27

Insanity, of any degree, is just cause to suspend penal liability, so that if a person committing an offence was insane and in a dangerous state at the time of the commission of the offence, he shall, by the order of the Public Prosecutor, be kept in a suitable place until the removal of that condition, and he can be released only by the order of the Public Prosecutor. The person in custody or his relatives may, however, may file a complaint against the order of the Public Prosecutor in court questioning the competency issue with regard to the actual offence. In such cases, the court shall

meet in the presence of the complainant, the prosecutor or his representative inviting the opinion of a specialist, and then either issuing the necessary order for the release of the person under custody or the confirmation of the order of the Public Prosecutor. This verdict of the court shall be final, but the person under custody or his relative shall be entitled to submit a complaint against the order of the Public Prosecutor once in every six months.

Explanation. In cases of occasional (adwari) insanity, it is mandatory that the person committing the offence must be insane at time of the commission of the offence.

#### Section 28

If it is proved that a person had taken an alcoholic intoxicant before the commission of the crime, he shall be liable to the punishment for taking such an intoxicant as well as the punishment for the commission of the crime.

#### Section 29

In case of punishable offences, whenever a person commits an offence in consequence of coercion or under compulsion which is intolerable, he shall not be punished for it. In such case the person exercising the coercion or compulsion shall be liable to the punishment for that offence.

#### Section 30

If a person commits an offence to protect his life or property or that of another person in a seriously perilous situation, such as in a flood or storm, he shall not be given any punishment, provided he has not caused the perilous situation deliberately, and the act committed was also proportionate to the risk involved and was essential for warding off the risk.

Explanation. This section does not apply to the case of Diyat and financial liability.

#### Section 31

The acts for which punishment is provided shall not be considered an offence in the following cases:

1. When the act was ordered by the person legally authorized to do that, and is not against Shari'ah.
2. When the performance of the act was important for the enforcement of the law.
3. When the performance of the act was meant to "direct others to do what is good or prevent them from doing what is wrong" (amr bil ma 'roof or nahy 'an al-munkar).

Explanation. Whenever an offence is committed by the unlawful order of an official authority, both the person giving the order as well as the person receiving it shall be liable to the punishment provided by the Shari'ah; but in case a person receives an order from an authority and obeys it under the misunderstanding that it is lawful, he shall be liable only to pay the Diyat or monetary liability.

## Section 32

The following acts shall not be considered an offence:

1. The acts of the parents, legal guardians and the guardians of minors and indicted person (mahjoor) performed by way of chastisement or for the sake of their protection, provided the chastisement or protection has been exercised within the normal limits.
2. Every kind of surgical or medical operation which is essential or performed with the consent of the person operated upon or his guardians, tutors or legal representatives and is in keeping with the technical and scientific standards and government regulations. It is not necessary to obtain consent in cases of emergency.
3. Accidents arising from athletic exercises, provided the cause of the accident is not in violation of rules relating to those athletic exercises, and the rules conform to the standards of the Shari'ah.

## Section 33



A person who commits an offence, in defense of the life, honor or chastity or physical liberty of another, shall not be prosecuted or punished under the following conditions:

1. The defense is proportionate to the transgression or danger.
2. When resorting to government (law-enforcing) agencies is practically impossible without loss of time, or their intervention is not effective in removing the transgression or danger.

Explanation. Defense of the life, honor, chastity, property or physical liberty of another shall be lawful only when that person is unable to defend himself/herself and needs help.

#### Section 34

Resisting security or law-enforcement forces as they fulfill their official duties shall not be considered defense, but whenever such forces exceed their jurisdiction, or according to the available evidence and circumstances there is apprehension that their action may result in death, injury, or trespass against the honor or chastity of a person, the defense by the person shall be lawful.

#### Chapter Nine - Remission of Punishment, Conditional Release of Prisoners, Suspension of Execution of Sentence

#### Section 35

In case of Ta'zeerat (punishments left to the discretion of the judge), where there are circumstances in favor of remission of a punishment, the court may remit the punishment. The circumstances in which a punishment may be remitted include the following reasons and conditions:

1. Withdrawal of the case by the complainant or special claimant.

2. Statements or information supplied by the accused which prove effective in recognition of the abettors or those providing assistance in an offence or discovery of articles recovered during the commission of an offence.
3. Special circumstances in which the accused has committed the offence, such as inciting words or conduct of the person with whom the offence has been committed or the existence of an incitement involving honor in the commission of the offence.
4. A statement of the accused prior to the prosecution, or his confession at the start of the investigation which is effective in the discovery of the offence.
5. Special circumstances or previous record of the accused.
6. Efforts on behalf of the accused that mitigate the effects of the offence, or compensation of the damages resulting from the offence.

Explanation 1. The court shall mention explicitly the reasons and conditions for the remission of the punishment in its judgment

Explanation 2. When circumstances favor remission of a punishment mentioned in this section, the court shall not remit the punishment again under the same circumstances.

Explanation 3. In case of plurality of offences, the court may grant remission in the punishment.

## Section 36

When the prosecution or the execution of the sentence is suspended by the withdrawal of the case by the complainant, the withdrawal must be unconditional. No action shall be taken on a conditional or contingent withdrawal. However, no heed shall be paid if the man retracts his withdrawal.

Whenever there are several aggrieved parties to an offence, the prosecution shall start on the complaint by any one of them, but the suspension of the prosecution and remission of the punishment shall depend on the pardon of the offence by all the complainants.

Explanation 1 The pardon of the offence by a temporary guardian (qayyim) shall not be effective unless agreed to by the Public Prosecutor.

Explanation 2. The right to pardon the offence shall be transferred to the heirs to the aggrieved party, and the execution of the punishment shall be dropped whenever all the heirs agree to pardon the offence.

### Section 37

There shall be no objection to the employment of prisoners on their request and with the permission of the court pronouncing the conviction. In case of persons committing ordinary offenses, the prisoners may be provided jobs in industrial or agricultural organizations from the time they enter the prison, provided the following conditions are fulfilled:

1. Request or consent of the prisoner.
2. As long as the prisoner is neither a professional criminal nor a dangerous one.

Explanation 1. When a person employed in an industrial or agricultural organization commits an offence, he shall be immediately sent back to the prison, and shall be liable to complete the remaining term of the sentence for the previous offence from the date of the commission of the new offence, in addition to the sentence pronounced for the new offence.

Explanation 2 The income from the job shall go to the prisoner, except when some other arrangement has been made.

Explanation 3. In consideration of the conditions mentioned above in the section relating to both the employment of persons convicted of ordinary as well as political offenses and the wages paid, in addition their surveillance shall be in accordance with the regulations proposed by the Supreme

Judicial Council and approved by the Ministers of Defense, Interior and Justice of the Islamic Republic (of Iran).

#### Section 38.

The pardon or remission of punishment of convicts within the limits of Islamic values on the proposal of the Supreme Court rests with the Leader (Rahbar).

#### Conditional Release of Prisoners

#### Section 39

When a person is sentenced to Ta'zeer imprisonment for the commission of an offence for the first time, and has undergone half of the sentence, he may be released conditionally by the order of the court pronouncing the final judgment for his conviction, provided he fulfills the following conditions:

1. When he has shown good behavior throughout the period of the sentence.
2. When, in view of the conditions and circumstances of the convict, it is presumed that he will not commit an offence after his release.
3. When, the loss or damage contained in the judgment of the court or agreed upon by the complainant has been compensated, or he undertakes to compensate it, or when the convict is sentenced to payment of compensation to the government.

Explanation 1. The issuance of the order for the conditional release depends on the proposal of the Assistant Public Prosecutor in charge of the prison and agreement of the Public Prosecutor of the court pronouncing the sentence, and, in absence of the Assistant Public Prosecutor, on the proposal of the Public Prosecutor. This proposal should state whether the person fulfilled the required conditions mentioned above. In this case the view expressed by the Prisoners Protection Association shall be considered by the Assistant Public Prosecutor and Public Prosecutor.

Explanation 2. The conditional release of those convicted according to the final judgment of the Martial Law Courts depends on the proposal of the Public Prosecutor of the court pronouncing the sentence of conviction and the agreement of the Army Prosecutor and issuance of the order by the court pronouncing the final judgment. In case the Martial Law Court issuing the final judgment has been dissolved, or is going to be dissolved, the conditional release shall depend on the proposal of Army Prosecutor and an order by the benches of the Permanent Revisionary Court under the Army Judicial Organization keeping in view the provisions of this Chapter.

Explanation 3. The term of the conditional release shall be for the remaining term of the sentence, but the court may also commute the sentence, though in any case it shall not be for less than one year or exceed five years, except when the remaining term of the sentence is for less than one year, in which case the term of the conditional release shall be for the remaining term of the sentence.

Explanation 4. If, during the term of the conditional release, the person released commits another offence and warrants for his arrest shall be issued by the proposal of the Public Prosecutor concerned for the remaining term of the sentence of the previous offence in addition to the sentence for the new offence.

Explanation 5. Whenever a person released shows good conduct and behavior throughout the term of the conditional release, his release shall become final.

#### Suspension of Execution of Sentence

#### Section 40

In all cases of Ta'zeer convictions, the judge may suspend the sentence for two to five years on the following conditions. In case of other sentences, except in cases where it is specifically mentioned by the law or the Shari'ah, suspension of the sentence shall not be lawful.

A. The convict should not have a record of a major penal conviction, or in case of such conviction, it has been removed.

B. In view of the social conditions and previous record of the convict and the circumstances which led to the commission of the crime, the court may consider it suitable to suspend the sentence.

C. The convict may undertake to pursue an honorable life and fully follow the orders of the court.

D. In case the sentence calls for the payment of a fine, whenever the court is convinced that the convict is not capable of paying the whole or part of the fine.

Explanation 1. When sentences call for both imprisonment and a fine, the court may, if it deems necessary, and in consideration of the provision of this Chapter, suspend the convict's sentence for imprisonment.

Explanation 2. The order for the suspension of the sentence shall be issued along with the judgment of conviction, and the convict, whose sentence has been suspended, if detained, shall be released immediately.

Explanation 3. The court shall mention explicitly in its order (for the suspension of the sentence) the reasons and grounds for suspension, and the instructions which the convict must follow during the period of suspension of the sentence, and also specify the period for which the sentence has been suspended according to the type of the offence, the personal reasons of the offender, and in consideration of the last part of Section 40 above.

Explanation 4. In consideration of the conditions and circumstances of the convict and the context of the case, the court may require the convict to observe the following instruction during the period of suspension of the sentence, and the convict shall be liable to follow the instruction of the court.

1. Contact a hospital or clinic for treatment of addiction.

2. Abstain from pursuing a specific job or profession.

3. Pursue studies in an educational institution.

4. Abstain from gambling, taking alcoholic drinks or associating with persons considered harmful by the court.

5. Abstain from visiting specific places.

6. Present himself after every specified time to a person or authority specified by the Public Prosecutor of the Shahrestan (or Division).

Explanation 5. Suspension of the following penal sentences is unlawful:

1. Persons convicted of importing, producing, or selling narcotic drugs or, providing shelter to the persons who do.

2. Persons convicted of embezzlement, bribery, forgery or use of a forged document.

Explanation 6. The suspension of the sentence shall have no effect on the rights of the private plaintiffs regarding their loss and damage, and the court decree for the payment of said damages shall be duly executed.

Explanation 7. Whenever a convict does not commit a new offence, having been punished as per Penal Code from the date of the issuance of the order for suspension of the sentence by the court, the suspended sentence shall be waived off from the penal record. The penal record documents should be prepared by the office of the Public Prosecutor immediately after the issuance of the final order of the court for the convicts whose sentences have been suspended and documents forwarded to the competent authorities. In all cases when some amendment is made in the period of suspension, or the order for the suspension of the sentence is cancelled, the matter should be reported immediately to competent authorities for registration in the penal record of the convict.

Explanation 8. If, after the sentence has been suspended, the person commits a new offence, the suspension of the previous sentence shall be annulled immediately after the finalization of the latest sentence, provided that the conviction for the new offence be a major one, and the court who had issued the order of suspension (of the previous sentence) should notify its annulment, so that the sentence suspended may also be executed against the convict.

Explanation 9. When, after the issuance of the order, it is learned that the convict has a record of previous conviction and the court has suspended his sentence without taking notice of the said

record, the Public Prosecutor shall request the court to cancel the order (of suspension of the sentence) on the authority of the previous record of conviction, and the court, after considering the arguments and verification of the previous record, shall annul the order of suspension of sentence.

Explanation 10. When issuing the order to suspend the sentence, the court shall also explicitly notify the convict of the legal consequences of failure to carry out the instructions of the court, and impress upon him that if he commits a new offence (having a major penal sentence) the sentence previously suspended shall be executed against him in addition to the sentence for the new offence.

Explanation 11. The provisions relating to the suspension of the sentence shall not be applicable when the persons who committed several gross offences have been convicted in consideration of their repeated offences. If several final sentences have been pronounced by the penal courts against a person including the suspended sentence, the Public Prosecutor required to execute the sentence shall be required to request the court to issue the order (of suspension of the sentence) to annul the order for the suspension of the sentence and execute the sentence in accordance with the Criminal Procedure Code.

#### Section 41

If a person, sentenced to life imprisonment, suffers from lunacy before the completion of his term, he shall be shifted to the mental hospital after he has been declared a mental patient by a medical doctor, with the approval of the person against whom the sentence has been pronounced, and the time he spends in the mental hospital shall count in the term of his sentence.

#### THE HUDOOD AND QISAS ACT AND RELEVANT RULES\*

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#### Definition of Qisas



Qisas (or retaliation) is a punishment which is awarded to an offender, and must be commensurate with the offence.

Two Kinds of Qisas: Qisas for life and Qisas for a part of human body.

## Chapter One - Qisas for Life

### Section 1

In accordance with the provisions of this Chapter, a willful murder (qatl-i amd) is punishable by Qisas (or retaliation) and the heirs to the person murdered (owliya al-dam) may kill the murderer with the permission of a Muslim ruler (wali) or this representative in fulfillment on the conditions mentioned below.

### Section 2

A Murder shall be willful in the following cases:

A. When the murderer, by the performance of an act, intends to kill another, irrespective of the act itself being of a type that causes death or not,, but in the results in death.

B. When the murderer intentionally commits an act that causes death, although he may not have intended to kill the other.

C. When the murderer does not intend to kill another, and the act done by him is also not the type that usually causes death, but it may cause death, particularly if the victim has pre-existing conditions (disease, old age, weakness, young age, or the like) that are known by the murderer.

### Section 3

A homicide (qatl-i-nafs) is divided into three classes: willful murder (qatl-i-amd), manslaughter or semblance of willful murder (qatl-i-shibh-i-amd) and homicide by misadventure (qatl-i-khata),

The laws relating to the latter two classes are mentioned in the Chapter on Diyat (money compensations).

## Murder under Compulsion

### Section 4

Compulsion does not justify the commission of a homicide, if a person is compelled by another to kill a third person, he should not commit that act, and if he does, he shall be liable to Qisas while the person compelling him to do it shall be liable to imprisonment for life.

Explanation 1. If the person compelled is a minor or an insane person, the person compelling him to commit the offence shall alone be liable to Qisas.

Explanation 2. If the person compelled is a minor, he shall not be liable to Qisas but instead his 'Aqilah (or close relatives) shall pay the Diyat (or money compensation), while the person compelling the minor to commit the offence shall be liable to imprisonment for life.

### Section 5

Whenever a Muslim is killed, the murderer shall be liable to Qisas.

### Section 6

Whenever a Muslim man willfully murders a Muslim woman, he shall be liable to Qisas, but before the execution of Qisas, the heir (wali) of the woman shall be paid by the murderer half of a man's Diyat.

## Section 7

When a non-Muslim subject of a Muslim state (an infidel dhimmi) willfully murders another infidel dhimmi, he shall be liable to Qisas, although they may be the followers of two different faiths (or din). If the person murdered happens to be a woman, her heir (wali) before the execution of the Qisas, shall be paid half of the Diyat of a male dhimmi by the murderer.

(Abetment of Homicide)

## Section 8

When two or more Muslim men jointly kill a Muslim man, the heir to the person murdered (waliyy-i-dam) may, with the permission of the judge (hakim-i-shar'), subject all of them to Qisas, but when there are two murderers, each shall pay half of his Diyat to him, where they be three, two-thirds of Diyat from each, and where there are four, three-fourth of the Diyat, and where they exceed four, each of them shall be paid his Diyat in the same proportion.

Explanation 1. The heir to the person murdered may subject some of the persons involved in the murder to Qisas, by payment from each of them his Diyat provided in Section 8 above, and receive from the rest their proportionate Diyat.

Explanation 2. The same rule shall apply even in case the murderers and the persons murdered happen to be all infidel dhimmis.

## Section 9

Whenever two or more persons inflict injury to a person causing his death, whether the injury is inflicted at the same time or on different occasions, if the death is proved to be caused by their joint offence, each of them shall be declared murderers, and they shall be liable to punishment according to the other provisions of this law in accordance with the relevant conditions.

## Section 10

Abetment of murder takes place when a person is killed as a result of the blow or injury by a number of persons, and it is proved that his death has resulted from their joint act, irrespective of the fact that the individual act of each of them was sufficient for causing death or not, and whether the effect of their respective acts has been the same or different.

#### Section 11

When a person inflicts injury upon another, and subsequently yet another kills him, the second one shall be the murderer, although the former injury alone would have resulted in the death of that person, so that the first shall only be liable to Qisas for the injured part of the body or the Diyat for that injury inflicted, except when in the Qisas for injury there is risk of death, in which case he shall be liable only to the payment of Diyat.

#### Section 12

Whenever injury inflicted by the first person takes the injured person to the verge of death (and there is only the last breath of life left in him) and then another person does something that puts an end to his life, the first one shall be liable to Qisas, while the second one shall be liable only to the Diyat for his offence against the dead person.

#### Section 13

Whenever an injury seriously harms a part of body of another resulting in his death, if the injury was caused by a single blow, it will be sufficient to subject him to Qisas for murder, and he shall not be liable to pay the Qisas or Diyat for the injury caused to the part of body (of the deceased).

#### Section 14

In every case where some Diyat is to be paid by the murderer and he is also to be inflicted Qisas, the payment of the Diyat should take place prior to the execution of the Qisas.

### Chapter Two- Conditions for Qisas

## Section 15

A person who has been sentenced to Qisas should be killed with the permission of the heir to the person murdered (waliyy-i-dam), so that if he is killed by a person without the permission of the heir to the person murdered, the person killing the murderer shall be liable for murder punishable by Qisas.

## Section 16

A father or paternal grandfather who kills his son (or grandson) shall be liable only to pay the Diyat for the murder to the heirs as a Ta'zeer.

## Section 17

Whenever a lunatic or a minor kills willfully, it shall be treated as a homicide by misadventure (qatl-i-khata), and he shall not be liable to Qisas, and his 'Aqilah (or close relatives) shall be liable to pay the Diyat for homicide by misadventure to the heir of the person killed.

## Section 18

If a sane person kills an insane person, he shall not be liable to Qisas and shall only be liable to pay Diyat to the heirs to the person killed.

## Section 19

Whenever an adult person kills a minor, he shall be liable to Qisas.

## Section 20

A murder committed in a state of intoxication is punishable by Qisas, except when it is proved that the person committing the murder was fully devoid of control and intention as a result of the

intoxication and that he had not intoxicated himself deliberately just for the commission of the murder.

#### Section 21

Whenever a person kills another (while the killer himself was) in a state of sleep or stupor, he shall not be liable to Qisas, but he shall be liable to pay Diyat for homicide to the heirs of the person killed.

#### Section 22

A homicide is punishable by Qisas only in case the person killed has not been sentenced to death by law, so that if a person is already sentenced to death, the person killing him should prove before the court that he was entitled to kill him.

### Chapter Three - Conditions for a Suit for Murder

#### Section 23

At the time of filing a suit, a complainant must be sane and adult, and in case the suit also involves payment of money, the mental maturity (rushd) of the complainant shall also be a condition. But no such condition is required with reference to the defendant.

#### Section 24

The complainant must have full certainty regarding the subject of the suit, because no suit can be filed against another on the grounds of suspicion or probability, but, when there are some indications of an offence, a suit without the commission of an offence may be entertained.

#### Section 25

The person against whom a complaint is filed must be specified and defined, and when he happens to be included in a group, he should be properly distinguished.

#### Section 26

The subject of the complaint must be fully specified, so that a person filing a suit for murder must also mention its kind as to its being a willful or unintentional murder. If the actual murder is established, but its kind is not fully proved, a conciliation should be brought between the murderer and the heirs to the person murdered and his 'Aqilah (or close relatives) and thereby the dispute must be settled.

#### Chapter Four

#### Section 27

Following are the means for establishing a murder:

1. Confession
2. Evidence
3. Qasamah
4. Intuition of the Judge.

#### Section 28

A willful murder is established by confession of willful murder, although it is made only once.

## Section 29

A confession shall be effective in case the person making confession fulfills the following conditions:

1. Sanity ('aql)
2. Puberty (bulugh)
3. Free will (ikhtiyar)
4. Intention (qasd)

Therefore a confession made by a lunatic, an intoxicated person, a minor, a person laboring under compulsion and persons devoid of intention, such as a person making a confession inadvertently or erroneously (sahi), or by way of joke (hazil), or in a state of sleep or stupor shall not be legally effective.

## Section 30

A confession of a willfully committed murder made by a person claiming idiocy or insolvency shall be legally effective and punishable by Qisas.

## Section 31

If a person confesses having committed a willful murder (qatl-i-amd) of another, and a third person confesses having committed a homicide of the same person by misadventure (qatl-i-khata), the heir to the person murdered (waliyy-i-dam) has the option to demand the conviction of either of them according to that person's confession, but cannot demand the award of punishment to both.

## Section 32



If a person confesses to willfully murdering another, and subsequently a third person makes a confession of having committed a willful murder of the same person, and the former later retracts from his confession, both shall not be liable to Qisas or Diyat, and the Diyat in this case shall be paid from the State Treasury (bayt al-mal), but it shall be so in case the judge does not have a logical suspicion that the confession made by the latter was done by way of a contrivance for the acquittal of the former.

### Section 33

A. A willful murder (qatl-i-'amd) is proved by evidence of two men of reputed integrity.

B. Culpable homicide not amounting to murder (or semblance of a willful murder, qatl-i-shibh-i-'amd) or a homicide by misadventure (qatl-i-khata) is proven by evidence of two men of reputed integrity or one man and two women of reputed integrity or one man of reputed integrity and an oath taken by the complainant.

### Section 34

When one of the two witnesses of reputed integrity testifies that the accused has pleaded guilty of a willful murder, and the other testifies that the accused has pleaded guilty of murder, but does not testify that the accused pleaded guilty of a willful murder, murder itself shall be proven, and the accused is required to state the type of murder. If he pleads guilty of a willful murder, he shall be liable to Qisas (or retaliation). If, however, he does not plead guilty of a willful murder and takes oath to this effect, he shall not be liable to Qisas (or retaliation).

### Section 35

Whenever an heir of the deceased (waliyy-i-dam) claims that a willful murder has been committed, and one of the two witnesses of reputed integrity testifies to the commission of a willful murder, while the other to the commission of the murder itself, and the accused pleads not guilty of a willful murder, it shall fall under the type of loath (or suspicion of involvement) and the complainant shall be required to prove the murder by qasamah (i.e. taking the required number of oaths).

### Section 36

Whenever one of the two witnesses of reputed integrity testifies to the commission of the murder, and the other testifies to the effect that the accused has pleaded guilty of murder, murder shall not thereby be proved, and the case shall be that of a loath (or suspicion of involvement).

### Section 37

Whenever, as a consequence of circumstances, the judge becomes doubtful about the commission of the murder, such as the testimony of a single witness, or the presence of a person with the implements of crime at the site of the offence, then either the presence of the person murdered at the place shall be rendered doubtful, or the residence of the persons in question shall fall under the category of loath (or suspicion of involvement).

### Section 38

In cases of loath (or suspicion of involvement), the defendant shall initially be asked to produce reliable evidence. In the event of absence of evidence, the complainant may invite forty nine men from among his relatives and dependents who have some knowledge about the commission of the murder, so that they may take oaths jointly with him proving his claim. In case their number is less than what is required by law (or nisab, i.e. forty nine), they shall repeat their oath until it reaches the required number of knowledge (about the case), or they are not willing to take oath, the complainant himself may repeat his oath fifty times in order to prove his claim.

### Section 39

Whenever the complaint fails to execute qasamah, the defendant may in the manner prescribed in Section 38 above, take up qasamah. In case he refuses to take up the qasamah, judgment shall be given in favor of the complainant.

### Section 40

The nisab (or the required number) of qasamah (or oaths) in case of culpable homicide not amounting to murder (or semblance of a willful murder, qatl-i-shibh-i-'amd), or homicide by misadventure (qatl-i-khata) shall be twenty five oaths, which shall be taken in the manner mentioned above.

#### Section 41

Qasamah in cases of injuries of parts of body shall prove Diyat and not Qisas, and its nisab (or the required number of oaths) shall be as follows:

1. The required number of oaths is six in case of injuries which entail the liability for full Diyat.
2. The required number of oaths is two in case of injuries which entail the liability for one-third, one-fourth or one-fifth of Diyat.
3. The required number of oaths is two in case of injuries which entail the liability for one-third, one-fourth or one-fifth of Diyat.
4. The number of oaths is one in case of injuries which entail one sixth of a Diyat or less.

#### Section 42

If a person is killed as a result of a crowd, or a dead body is found in a public place (shari 'i-'am), and there are no legal signs to prove the attribution of murder to any person or a group of persons, the judge shall pay the Diyat from the bayt-al-mal (or the State Treasury). If there is some circumstantial evidence cited before the judge according to whom the murder maybe attributed to a person or group of persons, it shall be a case of loath (suspicion of involvement).

#### Chapter Five - The Procedure for Execution of the Qisas .

#### Section 43

A willful murder is punishable by Qisas, but with the consent of the heirs of the deceased (waliyy-i-dam) and the murderer it may be changed into a full Diyat or less or more than a full Diyat.

#### Section 44

Whenever a man kills a woman, the heirs of the deceased may opt for Qisas with the payment of half of the full Diyat (of a man) to the murderer, or demand the Diyat of a woman from the murderer.

#### Section 45

Whenever the person who has committed a willful murder dies, there shall be no Qisas or Diyat (for the murder committed by the deceased).

#### Section 46

Whenever a person who has committed a willful murder escapes, and is not traceable until he dies, the Qisas shall change into Diyat which shall be payable from the property of the murderer. In case he has no property, the Diyat shall be paid from the property of his closest relatives, the closer being preferred to the remoter. In case there are no close relatives of the deceased, or they are not able to pay the Diyat, the Diyat shall be paid from the bayt al-mal (or the State Treasury).

#### Section 47

The heirs to the deceased (owliya-i-dam) who have the option for Qisas are all the heirs to the deceased except the husband or wife who have no option for Qisas as to its pardon or execution.

#### Section 48

A pregnant woman undergoing the sentence of Qisas shall not be punished by Qisas before the delivery or the child. Even after the delivery, if the Qisas may cause death to the child, the execution of the Qisas shall be delayed until the danger of death to the child is removed.

#### Section 49

Qisas by a blunt weapon which may cause torture to the offender is not lawful. Similarly amputation (muthlih) of the offender is also forbidden.

#### Section 50

In case there are several heirs to the person murdered, there must be unanimity for Qisas among them. In case all of them opt for Qisas of the murderer, the murderer shall be subjected to Qisas. If some of them demand Qisas, while others opt for the payment of Diyat, those demanding Qisas shall have to pay the share of the Diyat to those opting for Diyat. If some of the heirs pardon the murderer gratis, the others (demanding Qisas) may execute the Qisas after the payment to the murderer of the share of those who have pardoned the murderer.

#### Section 51

The heir to the person murdered may, with the permission of the judge (hakim-i-shar') execute the Qisas personally, or may appoint his agent for this purpose.

#### Section 52

If the heir to the person murdered happens to a minor or a lunatic, his guardian (father, grandfather, an executor appointed by them or the judge) keeping the interest of the minor or the lunatic in view, may execute the Qisas or change the Qisas into the prescribed Diyat, or more or less than the prescribed Diyat. If the heir to the person murdered is absent, and his absence becomes too long, the judge shall act in the capacity of his guardian (wali), and shall take necessary decision in accordance with the interest of the heir.

#### Section 53

Whenever a person or persons cause the release of a person sentenced to Qisas they shall be imprisoned until the murderer is handed over to the judicial authorities. In case the murderer dies before he is handed over to the judicial authorities, the person or persons causing the escape of the murderer shall be liable to pay the Diyat of the person murdered.

#### Section 54

If the person with whom the offence has been committed (majniyy'alayh) pardons (the offender) before his death, the Qisas shall not thereby be set aside and the heirs to the person murdered may, after his death, demand Qisas.

#### Part Two - The Qisas for a Part of Human Body

#### Section 55

Cutting a part of human body or inflicting an injury on it, if willful, is punishable by Qisas, and the person with whom the offence has been committed (majniyy 'alayh) may, with the permission of the judge subject the offender to Qisas with the conditions mentioned hereafter.

#### Section 56

Cutting a part of the body or inflicting an injury on it is of three types: willful, semblance of willful injury and by misadventure. The laws relating to the latter two types shall be mentioned in the Chapter on Diyat.

#### Section 57

Cutting of a part of body or inflicting an injury on it shall be willful in the following cases:.

(a) When the offender through the performance of an act intends to cut a part of the body or inflict an injury on it, whether the act is of a type which is likely to cause cutting of the part of the body or inflicting an injury on it or not.

(b) When the offender intentionally performs an act which is of the type which is likely to cause cutting of the part of the body or inflicting an injury on it, although he may not have thereby intended to cut the part of the body or inflict an injury on it.

(c) When neither the offender intends to cut the part of the body or inflict an injury on it, nor is the act of a type which is likely to cut the part of the body or inflict an injury on it, but in relation to the person with whom the offence has been committed it may, due to his ailment, old age, weakness, young age, or the like, fall into a type which is likely to cause cutting of the part of the body or inflicting an injury on it, and the offender should have knowledge about it.

#### Section 58

In a Qisas of a part of the body, besides the conditions relating to the Qisas of life, following conditions are required to be observed: .

(i) Equality of the part of the body in matter of soundness.

(ii) Equality of the parts of the body in matter of being real (as against artificial or surplus).

(iii) Equality in the location of the part of the body inflicted.

(iv) The Qisas may not likely cause the loss of life to the offender.

(v) The Qisas must not exceed the quantum of offence.

#### Section 59

In a Qisas of a part of human body, man and woman are equal and, therefore, a man committing an offence causing infirmity in a woman or committing an offence against a woman shall be punished with Qisas of a similar part of the body of the man, except when the Diyat of the part subject to infirmity is one-third or more than one-third of the full Diyat, in which case the woman can execute the Qisas provided she pays half of the Diyat of the part to the man.

#### Section 60

A sound part of the body shall not be subject to Qisas against an unsound part, and only Diyat thereof shall be required to be paid, while an unsound part of the body shall be subjected to Qisas against a sound part.

#### Section 61

In case of a Qisas of a part of the body, equality of the location is to be observed, so that the part of the body of the right side of the offender shall be subjected to Qisas against a part of the right side of the body, while the part of the left side of the body shall be subjected to Qisas against a part of that side.

Explanation. Where the offender has no right hand, his left hand shall be cut, and if he has even no left hand his foot shall be cut.

#### Section 62

The injury inflicted as a Qisas must be equal to the injury inflicted by the offender as regards its length and breadth, except in case of the injury which penetrates into the bone of the head in which case the customary resemblance shall be sufficient.

#### Section 63

Whenever it is not possible to observe equality in the Qisas of parts of the human body, as in case of some of the deep injuries or in case of fracture or displacement of bones, so that Qisas may lead to



the loss of life or may exceed the quantum of offence, its Diyat must be paid, irrespective of the fact that its amount is specified by law or by the order of the judge.

#### Section 64

The Qisas of a part of the human body may be executed immediately, and it is not necessary to wait till the position of the injury becomes clear. So if the Qisas is executed and the injury leads to the death of the inflicted person, where the offence had been willful, the offender shall be given death sentence, but before the execution of the Qisas the Diyat for the injury inflicted on the part of the offender's body as a Qisas must be paid to him.

#### Section 65

In order to observe equality between the Qisas and the offence, the quantum of the injury must be fully measured and every thing which may impede the execution of the Qisas or cause excess in it must be removed.

#### Section 66

If due to the movement of the offender the Qisas may exceed the quantum of offence, the person executing Qisas shall not be held responsible. In case, however, the excess is not due to any movement of the offender and be intentional, the person executing the Qisas shall be liable to pay the Diyat for it.

#### Section 67

Where the heat or cold in temperature is likely to cause infection of the injury, the Qisas must be executed in a moderate temperature.

#### Section 68

The weapon used for executing the Qisas must be sharp, unpoisoned and suitable for the execution of the Qisas, because it is not lawful to give pain to the offender in excess of the quantum of his offence.

#### Section 69

Whenever a person blinds another person in one eye, he shall be subjected to Qisas. When the offender only has one eye, nothing shall be paid as Diyat.

#### Section 70

Whenever a person, having both the eyes intact, makes another person blind who has only a single (sound) eye, the inflicted person may subjected the offender to Qisas and may also receive half of the full Diyat, except in case the inflicted person should have lost one of this eyes as a result of the execution of Qisas, in which case he shall be allowed only to execute Qisas, and shall not be entitled to receive anything else.

#### Section 71

If a person should cause the loss of sight of the eye of another person without damaging his eye-socket, only the eye sight of the offender shall be subjected to Qisas In case it is not possible to execute Qisas without damaging the offender's eyes, there shall be no Qisas, and the offender shall be required to pay its Diyat.

#### Section 72

A sound eye shall be subjected to Qisas against eyes which are not normal as regards their power of sight.

#### Section 73

Whenever a person cuts a part of another's ear and the inflicted person sticks that part to his ear, punishment of the Qisas shall not be set aside, and if the offender, after a part of his ear has been cut as a Qisas (also) sticks that part to his ear, no one shall cut that part of his ear again in order to maintain the effect of the Qisas.

#### Section 74

The cutting of the auricle resulting in the loss of the power of hearing shall be considered to be equal to two offences, and the Diyat of the power of hearing of each ear shall half of the full Diyat.

#### Section 75

Whenever a person cuts the nose of another, the inflicted person may execute Qisas, although the nose of the inflicted person may be devoid of the power of smelling.

#### Section 76

Whenever a person cuts the tongue or lip of another, he shall be subjected to Qisas, keeping in view equality of the amount and location (of the part of the body as well as the offence).

#### Section 77

Whenever a person breaks or pulls out the tooth of another, he shall be subjected to Qisas keeping in view the conditions relating to the Qisas for parts of the human body. If a new tooth grows in place of the broken one or the pulled tooth and the new tooth is sound, the offender shall not be liable to more than Ta'zeer. In case, however, the new tooth were defective, the offender shall be liable to pay the difference between a sound and defective tooth.

#### Section 78

If the inflicted person is a child, the execution of the judgment should be delayed for a usual period, so that if a new tooth grows to the child, the offender shall be liable to pay the fine (arsh): otherwise, he shall be sentenced to Qisas.

#### Section 79

If the object of offence is a surplus part of the body and the offender should not be having a corresponding surplus part, he shall be sentenced to pay Diyat.

#### Section 80

Equality in all respects is to be observed in the Qisas of the parts of the human body, and it can only be changed with the mutual agreement of both the parties.

### HUDOOD and THEIR RELEVANT LAWS

#### Chapter One - The Hadd for Zina

#### Section 81

Zina consists of sexual intercourse by a man with a woman who is not lawful for him, although it may be performed from the backside (unnaturally), except when it is performed under a semblance of right.

#### Section 82

Zina shall be punishable by Hadd only when the person charged with Zina fulfills the following conditions: puberty, sanity, free will and maturity.

So when Zina is performed by a minor, lunatic, one performing it under compulsion, one laboring under some misunderstanding, or one who without having the knowledge of law marries a woman

with whom marriage is not lawful and performs sexual act with her, the sexual act shall not cause a liability for Hadd.

Explanation 1. Whenever a woman has knowledge about the unlawfulness of sexual act with a man, while that man has no such knowledge and considers sexual act with her to be lawful and therefore performs such act resulting in penetration, only the woman and not the man shall be liable to Hadd for Zina, If, however, the man has the knowledge, while the woman is ignorant, only the man, to the exclusion of the woman, shall be liable to Hadd for Zina.

### Section 83

Whenever a man or a woman who has performed sexual intercourse claims to be laboring under a misunderstanding or ignorance, in case there is likelihood of veracity of the claim, his or her claim shall be accepted without any witness or oath, and the Hadd shall be set aside.

### Section 84

If a woman claims that sexual act has been performed with her under compulsion, in case there is no proof otherwise, her claim shall be accepted.

Procedure for Proving Zina in the Court.

### Section 85

Whenever a man or a woman confesses in four (separate) meetings of having committed Zina, he or she shall be sentenced to Hadd for Zina, and if he/she makes confession less than four times, he/she shall be given Ta'zeer punishment.

### Section 86

A confession shall be legally effective only when the person making confession fulfills the following conditions: puberty, sanity, free will and intention.

#### Section 87

The confession must be clear and unambiguous, so that there is no likelihood of any logical contradiction.

#### Section 88

Whenever a person confesses of having committed Zina and subsequently retracts his confession, the Hadd shall not be set aside, except when he/she confesses of having committed a Zina punishable by stoning to death or death, and subsequently retracts his confession, in which case the Hadd of stoning to death or of death shall be set aside.

#### Section 89

Whenever a person confesses of having committed Zina which is punishable by Hadd and subsequently repents, the judge may acquit him/her or inflict Hadd on him/her.

#### Section 90

Whenever a woman having no husband conceives, she shall not be inflicted Hadd merely due to the conception, except when her Zina is established in one of the ways mentioned in this law.

#### Section 91

Zina is proved by the evidence of four men of reputed integrity ('adl) or three men and two women all of reputed integrity, whether it is punishable by Hadd of lashes or that of stoning to death.

#### Section 92

In case a Zina is punishable only by the Hadd of lashes, it shall also be proved by the evidence of two men and four women all of reputed integrity.

Explanation. The evidence of women alone or of women accompanied by one man alone shall not be sufficient to prove Zina, and these witnesses shall be liable for the Hadd of false accusation of Zina (Qadhf).

#### Section 93

The evidence cited by the witnesses should be clear and unambiguous.

#### Section 94

The testimony cited by the witnesses must be based on personal observation, so that a testimony based on mere conjecture shall have no legal effect.

#### Section 95

Whenever the witnesses give the details of the matter concerning evidence, there should be no difference in the details relating to the time, place and such other matters, as in case of difference in the statements of the witnesses, the Zina shall not be established, and the witnesses shall be liable to the Hadd of false accusation of Zina (Qadhf).

#### Section 96

The witnesses shall give evidence without any interval, so that if some of them give evidence while the others do not appear immediately or fail to give evidence immediately, the Zina shall not be established, and the witnesses shall be liable to Hadd for false accusation of Zina (Qadhf).

#### Section 97

Whenever a Zina is proved by evidence or confession, its Hadd shall be executed immediately, except in cases like sickness or pregnancy.

#### Section 98

Whenever a man or woman committing Zina repents before the evidence is cited, Hadd shall be set aside, but if he/she repents after the evidence has been cited, the Hadd shall not be set aside.

#### Classes of Hadd for Zina

#### Section 99

The Hadd for Zina in the following cases is death:

A. Zina committed with the relatives within the prohibited degrees (maharim) of consanguinity (nasab).

B. Zina with father's wife (or step-mother)

C. Zina committed by a non-Muslim with a Muslim woman, in which case the man committing Zina shall be given death sentence.

D. Zina committed by coercion or compulsion, in which case the person exercising coercion or compulsion shall be given death sentence.

Explanation. In the above case there shall be no difference between a young or old person, married (muhsan) or un-married (ghayr-i-muhsan).

#### Section 100



The Hadd for Zina in the following cases shall be stoning to death (rajm):

A. A Zina committed by a muhsan, or a man having permanent wife whom he has enjoyed sexually and whom he may enjoy sexually any time he wants, shall be punishable by stoning to death.

B. A Zina by a muhsanah, or a woman having a permanent husband, by whom she has been enjoyed sexually and the woman has always the opportunity of sexual enjoyment with that husband, and the Zina is committed by her with a man of age (baligh), such Zina shall be punishable by stoning (her) to death (rajm).

Explanation 1. A Zina committed by a muhsanah with a minor shall be punishable by lashes and not by stoning to death.

Explanation 2. A Zina committed by a man or a woman having a permanent spouse, but due to travel, imprisonment or such other legally acceptable excuses he/she has no access to his/her spouse shall not be punishable by stoning to death.

Explanation 3. A revocable divorce does not liberate a person from ihsan (or status of being married) before the expiry of the term of 'Iddah. But an irrevocable divorce causes the liberation (of the spouses) from ihsan (even before the expiry of the 'Iddah).

#### Section 101

A Zina committed by an old man or woman fulfilling the conditions of ihsan shall be punishable by lashes before the execution of stoning to death.

#### Section 102

The Hadd for Zina committed by a man or woman not fulfilling the conditions of ihsan is one hundred lashes.

#### Section 103

A married man who commits Zina (with another woman) prior to sexual enjoyment of his wife resulting in penetration shall be sentenced to one hundred lashes, shaving of hair of the head and banishment for one year.

Explanation. In the above laws there is no difference between a Zina committed with a living woman and a dead woman.

#### Section 104

A repetition of Zina prior to the execution of the Hadd shall not cause multiplication of the Hadd, except when the punishment (for the offences) is not of a similar nature, such as when the punishment for some of them are lashes, while for others it is stoning to death, in which case before the execution of stoning to death the person committing Zina, he /she shall undergo the Hadd of lashes.

#### Section 105

Whenever a woman or man commits Zina several times, and every time he/she is awarded the Hadd punishment, in case he/she repeats it for the fourth time, he/she shall be punished by death.

#### Section 106

The Hadd of stoning to death shall not be executed if the woman is pregnant or might be pregnant. And, likewise, she will not be stoned to death subsequent to delivering the baby in case there is no one to take care of the new-born baby and there is apprehension of its death. However, if some one is available to look after the baby, the Hadd shall be executed on her.

#### Section 107

In the case of a pregnant woman, or a woman nursing a baby, when there is apprehension that the execution of the Hadd of lashes may harm the fetus or the suckling, the execution of the Hadd shall be postponed till the elimination of the apprehension.

## Section 108

When a woman, sentenced to death or stoning to death, is sick or having excessive menstruation, the Hadd shall be executed on her. If, however, she is sentenced to lashes, the execution of the Hadd shall be postponed till her recovery from the illness or the expiry of the excessive menstruation (istihadah).

Explanation. Menses are not an obstacle in the way of execution of a Hadd.

## Section 109

Whenever there is no hope of recovery for the patient or when the judge deems it advisable to execute the Hadd during the sickness, the convict shall be hit with a bundle of one hundred sticks or twigs only once, although all of the sticks or twigs may not touch the body of the convict.

## Section 110

Whenever a person sentenced to a Hadd turns insane or an apostate, his Hadd shall not be set aside.

## Section 111

The Hadd of lashes shall not be executed when the weather is extremely cold or extremely hot.

## Section 112

A Hadd cannot be executed in the territory of enemies of Islam.

The Procedure for Execution of a Hadd

### Section 113

Whenever a person is sentenced to several Hadd, they should be executed in a sequence, so that the execution of one of them may not destroy the possibility of the execution of another. For example, if a person has been sentenced to lashes and stoning to death, the Hadd of lashes should be executed first and subsequently the Hadd of stoning to death should be executed.

### Section 114

Whenever the Zina of a person fulfilling the conditions of Ihsan is established by his own confession, at the time of stoning him to death the judge shall pelt the first stone on him and he shall be followed by others. If the Zina is proved by evidence of witnesses, the witnesses shall start pelting stones, and they will be followed by the judge and then by others.

### Section 115

The Hadd of lashes shall be executed on a man convicted of Zina while he shall be in a standing posture and shall have no garments except those covering his privy parts, and he shall be flogged on all the parts of the body except his head, face and privy parts, while a woman shall be flogged in a sitting posture with her garments covering her body.

### Section 116

It is appropriate for the judge to notify the public as to the time for the execution of the Hadd, and it is essential that the number of believers present at the time of the execution of the Hadd should not be less than three.

### Section 117

At the time of stoning to death a man shall be buried in a pit up to the waist and a woman up to the chest, and then they shall be stoned to death.

#### Section 118

Whenever a person who has been sentenced to stoning to death escapes from the pit where he is partially buried, he shall be returned for the execution of the Hadd, but under certain circumstances he shall not be returned to the pit. When, however, a person who is sentenced to lashes escapes (from the place of flogging), he shall be returned for the execution of the Hadd of lashes in any way possible.

#### Section 119

The stones for stoning to death should not be so big that one or two of them may kill the convict, nor should they be so small that they may not be called "stones".

#### Section 120

The judge may act according to his knowledge in matters relating to Allah as well as those relating to the people, and execute the Hadd of Allah. It is, however, necessary that he should mention the source of his knowledge. In matters relating to Allah, he shall not depend on any one's request, but in matters relating to the people he shall take action for the execution of a Hadd on the application of the person whose right has been infringed.

#### Section 121

In case a Zina is committed during any of the sacred days, such as the days having religious sanctity, the month of Ramadan or Friday, or in a sacred place, such as a mosque, it shall be awarded Ta'zeer sentence in addition to the Hadd.

#### Section 122

The presence of witnesses at the execution of Hadd of stoning to death (rajm) is essential. If witnesses are absent, the Hadd shall not be set aside, but if they escape, the Hadd shall be set aside.

## Chapter Two - The Hadd for an Intoxicant (Muskir)

### Section 123

The drinking of an intoxicant, whether in a small or large quantity, whether it has intoxicated the person or not, and whether it is pure or mixed, shall be punishable by Hadd.

Explanation 1. Beer, even if it is not an intoxicant, falls under the category of liquor, and drinking it shall be punishable by the Hadd.

Explanation 2. Drinking grape-juice which becomes fomented by itself, or is boiled on fire, in the sun or such other heating agents, although prohibited, is yet not punishable by Hadd.

### Conditions for the Hadd of an Intoxicant

### Section 124

A Hadd for an intoxicant shall be applicable to a person who is adult, sane, having free will and has knowledge about its being an intoxicant and prohibited.

Explanation 1. In case a person taking liquor claims ignorance of the law or the matter, and there be likelihood of the veracity of his claim, he shall not be sentenced to the Hadd.

Explanation 2. Whenever a person who knows that drinking liquor is prohibited drinks liquor, he shall be sentenced to the Hadd, even though he may not have the knowledge that drinking it entails the liability for Hadd.

### Section 125

Whenever a person in a state of emergency has to take an amount of liquor necessary for saving himself from death or the treatment of some serious disease, he shall not be liable to the Hadd.

#### Section 126

Whenever a person makes confession of having taken liquor, he shall be sentenced to the Hadd.

#### Section 127

A confession is legally effective only when the person making it is an adult, sane and having free will and intention.

#### Section 128

The Hadd for taking liquor is established by the evidence of two men of reputed integrity ('adil).

#### Section 129

Whenever one of the men of reputed integrity testifies to the fact that the man has drunk liquor and another testifies to the fact that he has vomited liquor, the Hadd shall be established.

#### Section 130

Regarding testimony to drinking liquor, it is essential that there should be no difference regarding the time, place or such other detail. Whenever one of the witnesses testifies to the actual drinking of liquor, while the other to the drinking of a special kind of liquor, the Hadd shall be established.

Explanation. A confession or evidence shall entail the liability for the Hadd when there is no logical likelihood of the person being excusable.

## Section 131

The Hadd for drinking liquor for a man or a woman is eighty lashes.

Explanation. A non-Muslim shall be sentenced to eighty lashes only when he is convicted of drinking liquor in public.

### Procedure for Execution of the Hadd

## Section 132

A man shall be flogged in a standing posture and he shall have no garments except those covering his privy parts, while a woman shall be flogged in a sitting posture with her garments covering her body.

Explanation. The lashes shall not be hit on the head, face and privy parts of the convict.

## Section 133

The Hadd shall be executed at a time when the convict has recovered from his state of inebriety.

## Section 134

Whenever a person drinks liquor several times and no Hadd has been executed on him, only one Hadd shall be sufficient for all (the times he has drunk the liquor).

## Section 135



Whenever a person drinks liquor several times, and every time Hadd is executed on him, if he is convicted for the third time, he shall be punished by death.

#### Section 136

Whenever a person sentenced to Hadd turns insane or an apostate, the Hadd shall not be set aside.

#### Conditions for Setting Aside Hadd or its Pardon

#### Section 137

Whenever a person drinking liquor repents before the evidence is cited, his Hadd shall be set aside, but if the repents after the evidence has been cited, the Hadd shall not be set aside.

#### Section 138

Whenever a person repents after once making confession of having drunk liquor, the judge may acquit him or execute the Hadd on him.

#### Chapter Three - The Hadd for Sodomy

#### Section 139

Sodomy is the sexual intercourse with a male.

#### Section 140

The person committing sodomy and the person with whom it has been committed shall both be liable to the Hadd.

#### Section 141

The Hadd for sodomy is death, but the procedure for executing it depends on the discretion of the judge.

#### Section 142

Sodomy shall be punishable by death only when the person committing it and the person with whom it has been committed are both adult, sane and have free will.

#### Section 143

Whenever an adult and sane man commits sodomy with a minor, the person committing sodomy shall be given death sentence, while the person with whom sodomy has been committed shall be given Ta'zeer sentence, provided he has not been laboring under compulsion.

#### Section 144

Whenever a minor commits sodomy with another minor, they shall both be given Ta'zeer sentence, except when one of them had been laboring under compulsion.

#### Mode of Proving Sodomy in the Court

#### Section 145

Sodomy shall be established in respect of the person making confession four times of having committed sodomy.

#### Section 146

A confession shall be effective only when the person making it is sane and having free will and intention.

#### Section 147

A confession made less than four times shall not entail liability for the Hadd and shall only make the person making the confession liable to Ta'zeer.

#### Section 148

Sodomy is established by the evidence of four men of reputed integrity who should have personally observed the performance of the act.

#### Section 149

Whenever there are less than four witnesses, sodomy shall not be established, and the witnesses shall be liable to the Hadd for false accusation of sodomy (Qadhf).

#### Section 150

The testimony by women alone or in conjunction with men shall not establish sodomy.

#### Section 151

The (Shari'ah) judge may give his judgment on the basis of his knowledge acquired through the customary sources.

#### Section 152

The Hadd for tafkheedh (or masturbation through rubbing the male organ between the thighs of another) and similar acts between two men done without penetration shall be one hundred lashes to each.

Explanation. If the person committing the offence happens to be a non-Muslim and the person with whom the act has been done is a Muslim, the Hadd for the former shall be death.

#### Section 153

If tafkheedh or similar acts are repeated thrice, and after every time a Hadd has been executed, after it has been repeated for the fourth time, it shall be punishable by death.

#### Section 154

Whenever two men who are not related by consanguinity are found naked under a cover without any emergency, both shall be liable to Ta'zeer punishment.

#### Section 155

Whenever a person kisses another lasciviously, he shall be liable to Ta'zeer punishment.

#### Section 156

If a person who has committed tafkheedh or similar acts, or sodomy, repents before evidence is cited, the Hadd shall be set aside in his case. However, if he repents after the evidence has been cited, the Hadd shall not be set aside. If the offence has been established through the convict's own confession and subsequently he repents, the judge may pardon him.

#### Section 157

Tribadism (lesbian act), or musahagah is the homosexual act between women by (rubbing) their sexual organs.

#### Section 158

The procedure for establishing tribadism (lesbian act) is the same as that of establishing sodomy.

#### Section 159

The Hadd for tribadism (lesbian act) is one hundred lashes to each (of the women).

#### Section 160

The Hadd for tribadism (lesbian act) is established only in case of a person who is adult, sane and having free will and intention.

Explanation. In case of tribadism (lesbian act) there is no difference between the active and passive parties, or a Muslim and a non-Muslim.

#### Section 161

Whenever a person commits tribadism (lesbian act) thrice, and after every time its Hadd is executed, in the event of its repetition for the fourth time, its Hadd shall be death.

#### Section 162

If a person committing tribadism (lesbian act) repents before the evidence is cited, the Hadd shall be set aside in her case, but if she repents after the evidence has been cited, the Hadd shall not be set aside.

#### Section 163

If the a homosexual practice among women which attempts to simulate heterosexual intercourse homosexual practice among women which attempts to simulate heterosexual intercourse has been established by the confession of the woman committing it and subsequently the woman repents, the Shari'ah judge may pardon her.

#### Section 164

Whenever two women who are not related to each other by consanguinity are found naked under a cover without any emergency, they shall be punished by Ta'zeer of less than one hundred lashes, and in case of repetition of the act and award of the Ta'zeer for the third time, they shall be flogged a hundred lashes.

#### Panderism (Qawwadi)

#### Section 165

Panderism means uniting and bringing together two or more persons for Zina or sodomy.

#### Section 166

Panderism is established by confession made twice, provided the person making the confession is adult, sane and having free will and intention.

#### Section 167

Panderism is proved by the evidence of two men of reputed integrity.

#### Section 168

The Hadd for Panderism is seventy-five lashes and banishment from the place for a term to be determined by the judge.

Explanation. In case of a woman the Hadd for Panderism shall be seventy-five lashes only.

(False) Accusation (of Zina, etc.) or Qadhf.

#### Section 169

Qadhf means (false) accusation of another of Zina or sodomy.

#### Section 170

The Hadd for Qadhf is eighty lashes, whether the person committing Qadhf is a man or a woman.

Explanation. Whenever a person accuses another of some thing other than Zina or sodomy such as tribadism (lesbian act or a homosexual practice among women which attempts to simulate heterosexual intercourse) or any similar prohibited acts, he shall be sentenced to thirty to fifty lashes.

#### Section 171

Qadhf should be made in clear and unambiguous terms, and the person making the Qadhf should know the meanings of the words, although the listener may not know their meanings.

#### Section 172

Whenever a person says to the legitimate son: "You are not my son," he shall be liable to the Hadd for Qadhf.

### Section 173

Whenever a person says to the legitimate son of another, "You are not his (i.e., your father's) son," he shall be liable to the Hadd for Qadhf.

Explanation. In the above cases, whenever the context shows that the intention of the person has not been Qadhf, the Hadd shall not be established.

### Section 174

Whenever a person says to another, "You have committed Zina with a woman, or committed sodomy with a man," he shall be liable to have committed Qadhf in respect of the addressee, and the person uttering such words shall be liable to the Hadd for Qadhf.

### Section 175

Whenever a person accuses another of Zina says, "Your mother is a whore", he shall be liable to the Hadd for Qadhf in relation to the person whom he has accused, while in relation to the addressee whom he has hurt by the abuse, he shall be liable to Ta'zeer.

### Section 176

In case of every abuse which hurts a listener, but does not constitute a Qadhf, such as when a man says to his wife, "At the time of our marriage you were not a virgin," the person abusing shall be sentenced to ten to fifty lashes.

### Section 177

A Qadhf shall be punishable by a Hadd only when the person committing it is an adult, sane and having free will and intention, and the person who has been subjected to Qadhf is also an adult,



sane, Muslim and chaste, so that if the person making the Qadhf or the person to whom it is addressed does not fulfill any of the above conditions, the Hadd shall not be established.

#### Section 178

Whenever a discreet minor commits Qadhf against another, he shall be sentenced to ten to thirty lashes. Likewise, whenever an adult and sane person commits Qadhf against a minor or a non-Muslim, he shall be punished by Ta'zeer.

#### Section 179

If the person subjected to Qadhf is not chaste (with regard to the accusation) and only pretends to be, the person making Qadhf shall not be liable to the Hadd or Ta'zeer.

#### Section 180

Whenever close relatives subject each other to Qadhf, they shall be liable to the Hadd for Qadhf.

Explanation. If a father or paternal grand-father subjects his son (or grandson) to Qadhf, he shall be sentenced to Ta'zeer.

#### Section 181

Whenever a man subjects his deceased wife to Qadhf and that woman has no heir but a son from the same man, the Hadd shall not be established. If, however, the woman has any other heir, such as a son from another husband, the Hadd shall be established.

#### Section 182

Whenever a man commits Qadhf against several persons separately, he shall be liable to a separate Hadd for each Qadhf, whether they apply for the execution of the Hadd jointly or separately.

### Section 183

Whenever a person subjects several persons to Qadhf by a single formula, if they demand the execution of Hadd separately, separate Hadd shall be executed for the Qadhf of each, but if they demand a Hadd jointly only a single Hadd shall be established.

### Section 184

A Qadhf is established by a confession made twice.

### Section 185

A confession is effective only when the person making it is adult, sane and having free will and intention.

### Section 186

A Qadhf is proved by the evidence of two men of reputed integrity.

### Section 187

A convict shall be flogged clothed in his usual garments and the lashes shall be medium and not as severe as in case of the Hadd for Zina parts of the person convicted of Qadhf.

### Section 188

Whenever a person commits Qadhf several times and every time the Hadd is executed on him, in case he commits it for the fourth time, he shall be given death sentence.

#### Section 189

Whenever a person committing Qadhf after the execution of the Hadd says, "What I had said was true." he shall be given Ta'zeer punishment.

#### Section 190

Whenever a person subjects another to Qadhf several times for the same (immoral) act, such as Zina, only a single Hadd shall be established.

#### Section 191

Whenever a person subjects another to Qadhf for several (immoral) acts, such as Zina and sodomy, several Hadds (equal to the number of the accusations) shall be incurred.

#### Section 192

The Hadd for Qadhf shall be set aside in the following cases:

1. Whenever the person subjected to Qadhf confirms the accusation by the person making Qadhf.
2. Whenever the witnesses in the number required by law (nisab) testify to the matter involved in the Qadhf.
3. Whenever the person subjected to Qadhf or all of his heirs pardon the person making the
4. When a man subjecting his wife to Qadhf undergoes the process of Li'an (or Imprecation).

## Section 193

Whenever two persons subject each other to Qadhf, whether their Qadhf is similar or different, their Hadd shall be set aside they shall be given Ta'zeer punishment.

## Section 194

If a Hadd is not executed or condoned, it is transferred to the heir.

## Section 195

The right to demand the Hadd for Qadhf is transferred to all the heirs except the husband and wife, and each of the heirs shall be entitled to demand the execution of the Hadd, although the other heirs may have condoned it.

## THE LAW OF HUDOOD, QISAS and THEIR RULES

### Section 196 to 218

(Muharabah Ifsad fi al-Ard)\*\*

1-Definition of Muharib and Mufsid fi al-Ardh\*\*

### Section 196

Every one who, in order to create alarm and harassment and disturb public freedom and security, takes up arms is termed a Muharib.

Explanation 1. There is no difference between fire-arms and other arms.

Explanation 2. If a person draws a weapon in public, but due to weakness is unable to harass any individual, it shall not be termed a muharib.

Explanation 3. If a person draws a weapon before a particular person or persons, and it has no general feature, he shall not be termed a muharib.

\*Published in the Official Gazette No. 10987 dated 24-8-1361/15-11-1982.

\*\*Understood, though not given in the Persian text. (Translator).

Explanation 4. Every individual or group who takes up arms for combating the muharibs or eradicating corruption from earth shall not be termed a muharib.

#### Section 197

Whenever an armed dacoit or a highway robber (using arms) disturbs the public and highway security or creates alarm and harassment, he shall be termed a muharib.

#### Section 198

If a group or organized party makes an armed revolt against the Islamic regime, all the individuals and supporters who have knowledge about the location of the group or contribute in any way towards the advancement of the objectives of the group shall be treated as muharib, although they may not be participating in any of their regular branches.

Explanation. Several fronts formed with the various groups or persons shall be considered a single unit of the original organization.

#### Section 199

Every individual or group who creates a plan for the overthrow of the Islamic regime and purchases supplies, arms, or explosives, or with full knowledge and free will, supplies the means, facilities, or arms shall be termed muharib and one engaged in spreading corruption on earth (mufsid fi al-ard).

#### Section 200

Every one who volunteers for an important post in the coup d'etat government as a part of the plan for overthrowing the Islamic regime, and whose work is in any way effective in bringing about the coup d'etat shall be deemed muharib and one spreading corruption on earth (musfif fi al-ard).

#### 2-Modes of Establishment of Muharabah and Ifsad fi al-Ard

#### Section 201

Muharabah and ifsad fi al-Ardh(spreading corruption on earth) shall be established through one of the following modes:

A. By a single confession, as long as the person making confession is adult, sane, and has made the confession by free will and intention.

B. By the evidence of only two men of reputed integrity.

Explanation 1. The testimony of the persons subjected to the aggression of the muharibs cited in favor of each other shall not be accepted.

Explanation 2. Whenever some people have been subjected to the aggression of the muharibs, evidence of those who declare that they have not in any way been harmed shall be accepted when it is cited in favor of others (who claim to have been harmed).

Explanation 3. The testimony of the persons subjected to aggression of the muharibs), when intended to establish the muharabah of the aggressors and not as a personal complaint, shall be accepted.

### 3- The Hadd for Muharabah and Ifsad fi al-Ardh

#### Section 202

The Hadd for muharabah and ifsad fi al-Ardh shall be one of the following:

1. Beheading
2. Crucifixion
3. Amputation of right hand and left foot
4. Banishment

The choice of any of these four punishments rests with the judge, but in case there is some evil factor (mafsadah) for the convict in the choice of any of these four punishments, the judge shall not make the choice of that punishment, whether the convict has killed, or injured any person or has stolen the property of a person, or has not done any of these acts.

#### Section 203

The Hadd for muharabah and ifsad fi al-Ardh is not set aside when the person suffering it condones it.

#### Section 204

The person may be banished if convicted of spreading corruption on earth (or mufsid) or a muharib shall be kept under vigilance, and shall not be allowed to interact or have social contact with others.

#### Section 205

In any case, the term of banishment shall not be for less than one year, even if the person repents after he has been arrested. In case he fails to repent, he shall continue to live in banishment.

#### Section 206

A Muharib or a Mufsid fi al-Ardh (or one spreading corruption on earth) during the currency of his term of banishment shall be forbidden to leave for the non-Muslim countries.

#### Section 207

Crucifixion of a mufsid or muharib shall take place with the following conditions:

- A. He should be tied in a way that it may not cause his death.
- B. He should not be left on the cross for more than three days, but if during the three days he dies, his dead body may be brought down after the death.
- C. If after three days he is still alive, he shall not be killed.

#### Section 208

Amputation of the right hand and left foot of a mufsid and muharib is done in the same way as in the execution of the Hadd for theft.

#### Section 209



Whenever a muharib has killed some one during combat (or muharabah) and the heirs to the deceased (owliya al-dam) demand Qisas, the judge shall award the sentence of death, provided all the necessary conditions are fulfilled.

#### Section 210

If during combat (or muharabah), a muharib causes an injury to a person which entails Qisas, the person with whom the offence has been committed may, by the order of the court, subject him to Qisas.

#### Section 211

When a muharib or a mufsid fi al-Ardh repents before he is arrested, the Hadd shall be set aside. But if he repents after he has been arrested, the Hadd shall not be set aside.

### 4-The Hadd for Theft

#### I. Definition

#### Section 212

Theft (sirqat; or sariqah\*) means stealing or secretly taking away of another's property.

#### Section 213

A theft shall be punishable by a Hadd only when the thief fulfills the following conditions:

\*Theft is called "serghat or sirqat" in Persian and "sariqah" in Arabic (Translator)

1. He should have attained to the age of puberty according to the Shari ah.
2. At the time of the commission of the theft, he must have been sane.
3. He should not have been compelled to commit theft by a threat.
4. He should not have committed theft due to some emergency or unavoidable circumstances.
5. He should not be the father of the person to whom the stolen property belongs.
6. He should have full knowledge and realization that the property belongs to another.
7. He should know and fully realize that taking away (another's) property is prohibited.
8. He should take away the property by way of theft.
9. The owner of the property should have kept the property in a guarded place (hirz)
10. The thief alone, or with the help of another, should have broken into the guarded place.

Explanation . Hirz means a place where property is kept in order that it may be away from the sight of others and safe from being taken away.

11. The property should have been taken away by the thief alone or with the help of another from the guarded place.

Explanation 1. Taking away the property from a guarded place by a lunatic or an indiscreet minor is like taking away the property personally.

Explanation 2. Whenever a thief is caught in the guarded place before taking away the property, he shall not be liable to the Hadd.

Explanation 3. Whenever the thief returns the property to its owner after having stolen it, the theft shall not entail the liability for Hadd.

#### Section 214

A theft shall be punishable by Hadd only when the property stolen fulfills the following conditions:

1. The property should have been protected in a properly guarded place.
2. The property should contain at least  $\frac{4}{5}$  gram of gold in the form of coin which is used for money exchange, or its value should amount to this (minimum) limit.

Explanation 1. The above quantity should relate to a single theft.

Explanation 2. The total value shall be assessed according to the price at the time of the commission of the theft.

Explanation 3. Whenever two or more persons have a share in a stolen property, the share of each one of them should reach the above (minimum) limit.

Explanation 4. Whenever a person steals a document, check or other negotiable instruments, which have themselves no value in the market but their theft causes monetary loss to their owner, it shall not incur a liability for Hadd.

3. The guarded place or the place where the property is kept should no have been usurped from the person stealing the property.

4. The property should not be a government trust property, or the like, which has no private ownership.

#### Section 215

A theft shall be punishable by Hadd when it possesses the following features:

1. It must have been committed stealthily.
2. There should have been no famine in that year.

Explanation. In case of absence of any of the conditions mentioned above, the thief shall be given Ta'zeer punishment provided under the relevant chapter.

#### II. Modes of establishment a Theft

#### Section 216

A theft punishable by a Hadd is established in one of the following manners:

1. Evidence by two men of reputed integrity.
2. A confession made twice by the thief before the judge, as long as the person making the confession is adult, sane and having intention and free will.
3. Knowledge of the judge.

Explanation. If a person makes confession before the judge once, and then returns the property to its owner, he shall not be liable to the Hadd.

### III. Conditions for Execution of the Hadd

#### Section 217

The Hadd for theft shall be executed only if the following conditions are fulfilled:

1. The owner of the property should have submitted a complaint about it before the judge.
2. The owner of the property should not have pardoned the thief before submission of the complaint before the judge.
3. The owner of the property should not have bestowed the property to the thief before the submission of the complaint.
4. The stolen property should not have been transferred to the ownership of the thief through a sale or a similar transaction prior to the establishment of the offence.
5. The thief should not have repented before the establishment of the offence.

Explanation. If repentance is made subsequent to the establishment of the offence, the Hadd shall not be set aside, and it is not lawful to pardon (the thief after establishment of the offence).

### IV - The Hadd for Theft

#### Section 218

The Hadd for theft, for the person's first offence, is cutting off the four fingers of the right hand leaving the thumb and palm of the hand. The Hadd for the person's second offence is cutting off the left foot leaving the fingers of the foot to the ankle intact (drawing wet fingers of hand on the

bisection of the hair on the forehead and from the fingers of the foot to the ankle of the feet, as part of ablution, or wudu', before the prayer, or namaz). The Hadd for the third offence is the thief shall be sentenced to prison for life. And, the Hadd for the fourth offence, when the person commits theft in prison, is death by hanging.

Explanation 1. Several acts of theft committed prior to the carrying out of the Hadd shall be considered a single theft.

Explanation 2. Whenever the fingers of the thief's right hand have been cut off, and another theft is committed by him, his left foot shall be cut off.

#### ISLAMIC PENAL CODE (DIYAT SECTION)\*

(Passed on 24 Azar, 1361 - 15th December, 1982)

Third Subject : (Diyat)

Definition

Section 1

Diyat is the money paid to a person against whom the offence is committed or his/her or heirs due to an offence against the life or a part of the body.

Cases of Diyat

Section 2

Diyat is established in the following cases:

A. Murder, injury or physical infirmity due to a sheer mistake. In this case, the offender neither intended to commit an offence against the person, nor did he intend the act committed, such as, when a person throws an arrow to kill an animal but it hits a person.

B. Murder, injury or physical infirmity due to mistake resembling an intentional act. In this case, the offender intends to perform an act which is not an offence, but he does not intend to commit an offence against the person. An example is when he chastises another in a manner which is not of the type of an offence which incidentally results in an offence, or a physician (or surgeon) treats a patient in an ordinary and usual manner and by way of an accident physical damage is done.

C. Diyat in cases of Qisas, mentioned in its relevant place.

\* Published in the Official Gazette No. 11030 dated 18/10/1361 - 1/12/1982

Explanation 1. The intentional offences committed by a lunatic are treated as offences by sheer misadventure.

Explanation 2. When it is proven legally that certain offences were committed with the belief that the person (who committed the offence) was liable to Qisas or with the belief that the person was one whose blood may be shed with impunity (mahdur al-dam), and that the person against whom the offence was committed was neither liable to Qisas nor one whose blood may be shed with impunity, in this case the offence shall be treated as one committed by mistake resembling unintentional offence.

The Amount of Diyat for Murder of a Person

### Section 3

The Diyat for the murder of a Muslim man shall be any of the following items, and the offender shall be free to choose any one of them, but it is not lawful to mix them up.

A hundred healthy camels, free from all blemishes and not very lean.

Two hundred healthy cows, free from all blemishes and not very lean.

One thousand healthy sheep, free from all blemishes and not very lean.

Two hundred pieces of garments, made of Yemeni cloth free from all defects.

One thousand pure and unalloyed Dinars, in the form of coins each of the Dinars weighing one Shar'i mithqal of gold = 18 nokhods (a nokhod being approximately equal to 1/5 gram).

Ten thousand pure and unalloyed Dirhams in the form of coins, each dirham weighing 12/6 nokhods of silver.

Explanation. When both parties agree, the payment of any one of the above is sufficient, as is any mixing up of the above items (to satisfy the purpose of the law).

#### Section 4

In cases where Qisas is not possible, or the heir of the murdered victim agrees to the payment of Diyat, the Diyat for a willful murder shall be one of the above mentioned six items. However, in the case of camels it is necessary that the animals be more than five years old and the sixth year should have started.

#### Time Allowed For the Payment of Diyat

#### Section 5

The Diyat for a willful murder or an unintentional murder committed in the harem of Holy Mecca or during one of the harem months (namely, Rajab, Dhul Qa'dah, Dhul Hijjah and Muharram) shall be one of the afore-mentioned items plus one-third of each type opted this. This law, does not apply to other places or months, no matter how sacred they may be.



## Section 6

The Diyat for a willful murder or an unintentional murder of a Muslim woman is half of the aforementioned items.

## Section 7

The Diyat for a man and a woman is the same in the case of injuries, until the Diyat amounts to one-third of the full Diyat in which case the Diyat for the injuries of a woman shall be half of that of a man.

## Section 8

The time allowed for the payment of the Diyat in the various cases is respectively as follows:

A. The Diyat for a willful murder must be paid within a year, and it is unlawful to further delay its payment, except by the mutual agreement of both the parties.

B. The Diyat for culpable homicide not amounting to murder (or semblance of a willful murder) must be paid within two years.

C. The Diyat for murder by sheer misadventure must be paid within three years.

Explanation. The Diyat for murdering a fetus (janin) as well as the Diyat for injuring a part of its body shall be paid in the same order as mentioned in the preceding section.

Person Liable to Pay a Diyat

## Section 9

In the case of a willful murder or a semblance of a willful murder, the murderer himself is liable to pay the Diyat. However, in the case of a murder by sheer misadventure the 'Aqilah (or close relatives) (or close relatives) of the murderer are directly liable to pay the Diyat, and no recourse will be made to the murderer (for its payment).

#### Section 10

In the case of a culpable homicide not amounting to murder, if the murderer is not able to pay the Diyat despite the longer period allowed for its payment, his close relatives are liable to pay it, the closer being preferred to the remoter. If he happens to have no close relatives, or they are not able to pay the Diyat, it shall be paid from the bayt al-mal (or the State Treasury).

The 'Aqilah, Who are Liable to Pay the Diyat For Offences Committed By Misadventure

#### Section 11

The Diyat for murder by sheer misadventure as well as the Diyat for the "Mudihah" \*injury and the Diyat for injuries deeper than that shall be paid by the 'Aqilah, while the Diyat for injuries lesser than that shall be payable by the offender himself.

\*Mudihah is an injury which lays open the whiteness of a bone. (See Glossary at the end).

Explanation. Both willful offences and those with only a semblance of intention committed by a minor or a lunatic are treated as offences committed by sheer misadventure. Therefore, the 'Aqilah (or close relatives) are liable to pay the Diyat.

#### Section 12

The 'Aqilah include the close male relatives, on either just the father's side or both the father's and mother's side, such as the father or paternal grandfather, brother, son, paternal uncle or his sons.

#### Section 13

The wife is not counted among the 'Aqilah (or close relatives) and is not liable to pay the Diyat for offences committed by her husband by misadventure. Equally, minors and lunatics are not considered among the 'Aqilah and therefore are not held liable to pay the Diyat for offences committed by their close relatives.

#### Section 14

If the 'Aqilah (or close relatives) are destitute, they are not held liable to pay the Diyat for offences committed by their close relatives.

#### Section 15

Whenever a culpable homicide not amounting to murder is proved by the evidence of witnesses of reputed integrity, the 'Aqilah (or close relatives of the offender) shall be liable to pay the Diyat. But if it is proved by the confession of the offender, the offender shall be personally liable to pay the Diyat.

#### Section 16

Whenever an actual murder is proved by the evidence of witnesses of reputed integrity and the offender claims that it has been committed by misadventure, and the 'Aqilah take an oath, their word shall be given preference to that of the offender.

#### Section 17

A person is liable for the offences committed by him by misadventure. A person causing some financial loss shall be liable for the financial loss incurred by, and his/her 'Aqilah shall not be liable to pay the financial losses when the losses are incurred by offences committed by misadventure or the like. They are liable only to pay the Diyat for the culpable homicide not amounting to murder as well as the injuries inflicted by misadventure.

#### Section 18

The Diyat for the offences committed by sheer misadventure shall be paid by the 'Aquilah in order of respective degrees of (heirs to) inheritance.

#### Section 19

Whenever the offender has no close relatives ('Aquilah) or they are not able to pay the Diyat within three years, the Diyat shall be paid from the bayt al-mal (or the State Treasury).

#### Section 20

The offender is liable to pay the Diyat for a willful murder as well as a (illegible) homicide not amounting to murder. But in case he escapes, it shall be paid from his property. In case he has no property, his close relatives will be liable to pay it, the closer being preferred to the remoter. If he has no close relatives or they are not able to pay the Diyat, it shall be paid from bayt al-mal (or the State Treasury).

#### The Causes for Liability

#### Section 21

An offence, whether committed directly or by an intermediate cause, or both directly and by an intermediate cause at the same time shall entail liability.

#### Section 22

An offence is committed directly when it is committed personally by the offender himself.

#### Section 23

An offence is committed by an intermediate cause when a person provides the cause of loss of life or injury to another, but does not commit the offence directly, such as, when a person digs a well and some one falls into it receiving injury.

#### Section 24

In case an offence is committed by a person directly as well as by an intermediate cause, the offender shall be held liable, except when the intermediate cause is stronger than the direct commission.

#### Section 25

Whenever a physician (or a surgeon), though an expert and specialist, during a treatment made personally or by his order (even if it is made with the permission of the patient or his guardian) causes loss of life, infirmity or financial loss, he shall be held liable for it, except when he has obtained a bond of impunity from the patient or guardian before the treatment has begun.

#### Section 26

When a person is circumcising another and causes an offence or loss to him due to excessive circumcision, he shall be held liable for it, although he may be an expert or specialist.

#### Section 27

Whenever a Veterinary surgeon or Veterinarian, though a specialist, during the course of treating an animal, with the permission of the animal's master, causes some injury to the animal, he shall be held liable for it, unless he has obtained a bond of impunity from the master before the treatment has begun.

#### Section 28

Whenever a physician, a surgeon, a veterinary surgeon, or the like, has obtained a bond of impunity from the patient, his guardian or the master of the animal before starting the treatment, he shall not be held liable for the loss sustained (by the patient or the animal).

#### Section 29

Whenever a person sleeping causes an infirmity or loss of life to another due to some movement or rolling, his offence shall be considered to have been committed by sheer misadventure and his 'Aqilah shall be held liable for it.

#### Section 30

Whenever a person carries something by his side or with him by means of transport, and it strikes against another and causes an offence, in case it is done willfully or by semblance of intention, he shall be held liable for it. In case it is done by sheer misadventure, his 'Aqilah (or close relatives) shall be held liable for it.

#### Section 31

Whenever a person drags a weapon before another, or provokes a dog against another, or performs an act to harass another, and the other person dies as a result, and the act is one which may kill a person, or it is done with the intention of killing a person, though it may not be of the type which may kill a person, it shall be treated as a willful murder, and the offender shall be liable to Qisas. However, in case, if the act is not one which may kill a person or is not done with the intention of killing a person, it shall be treated as a culpable homicide not amounting to murder, (or semblance of a willful murder), and the murderer shall be liable for its Diyat.

#### Section 32

Whenever a person harasses another compelling him to escape, and while escaping, throws himself down from a high place or falls into a well and as a result of it dies, if the harassment had caused loss of intention or will power or an obstacle in the way of his decision, the person harassing him shall be held liable for it.

### Section 33

Whenever a person throws himself from a high place and, falling upon another, causes an offence, even though he had no intention of committing the offence, and the act done intentionally by him was also not of a type which is likely to cause the offence, he shall be held liable to pay the Diyat. If he wanted to fall down at a place where there was no one else, but by way of an accident he fell down at a place where there was someone else, 'Aquilah (or close relatives) shall be liable to pay the Diyat. But in case he falls down somewhere as a result of a slip or some other accident beyond his power, the liability shall be neither his nor that of his 'Aquilah.

### Section 34

Whenever a person causes an injury to another, and that person dies or receives some injury, he shall be held liable to pay Diyat, although he did not do so in order to commit an intentional offence, nor was the act of a type which is likely to cause an offence.

### Section 35

Whenever a person throws another on a third person and the third person dies or receives injury, he shall be liable to pay Diyat, even though he may not have done it in order to commit an offence or the act was of the type which is likely to cause an offence.

### Section 36

Whenever a person is on his own property, a lawful place or a vast public place, and another person collides with him and is injured, the former shall not be held liable for any damage

Whenever a person stops quickly at a place, such as, in a narrow path, and another person collides with him by mistake or without any intention, and dies, the person stopping there shall be held liable for Diyat. Likewise, if he causes a passerby to slip and be hurt, he shall be liable for the damage, except when the passerby should have intentionally hit against him despite vastness of the path, in which case not only that his damage shall go uncompensated but he shall also be held liable to compensate the person stopping there for the injury received by him.

## Abetment

### Section 38

Whenever two persons hit against each other and die in consequence, while both of them were riding or one of them was riding and the other was going on foot, in case it was semblance of a willful murder, half of the Diyat of each shall be paid from the property of the other. In case it was an offence committed by sheer misadventure, half of the Diyat of each shall be paid by the 'Aqilah of the other.

### Section 39

If two persons collide with each other and, as a result, one of them dies, in case it was semblance of a willful murder, half of the Diyat of the deceased shall be payable by the other. In case it was an offence committed by sheer misadventure, half of the Diyat of the deceased shall be paid by the "Aqilah (or close relatives) (or close relatives) of the other.

### Section 40

When as a result of a collision of two persons in their means of transport, such as a car, and the means of transport is damaged, in case both of them are held responsible for the accident and collision, or neither is responsible, each of them shall be liable for half of the damage to the means of transport belonging to the other, whether the two means of transport are of the same type or not. In case one of them is responsible for it, he alone shall be held liable for the damages.

Explanation. The mistake (or misadventure) includes carelessness, negligence, lack of experience and non-observance of the government traffic rules and regulations.

### Section 41

Whenever persons riding in two or more different means of transport die as a result of their collision, in case it was semblance of a willful murder, the driver of each of the means of transport shall be liable for half the Diyat of all the persons riding in them. In case it was an offence committed



by sheer misadventure, the 'Aquilah (or close relatives) of each of them shall be liable to pay half the Diyat of all the persons riding in the two means of transport. If the collision took place due to the semblance of a willful offence of one and by sheer mistake of the other, payment of the Diyat shall be made according to the respective liability of each of the two drivers.

If the collision took place due to an avalanche or storm or some other act of God there shall be no liability whatsoever to either.

#### Section 42

Whenever a person, who was invited and carried by another from his house at night, becomes missing, the person inviting him shall be liable to pay his Diyat. If, however, he claims that a third person killed him and adduces evidence in support of such claim, he shall be acquitted. If he does not make such claim or cannot adduce evidence in support of such claim, he shall be liable only for the payment of the Diyat. If it is proved that the man has died a natural death or due to an act of God, no liability shall lie on the person inviting him.

#### Section 43

Whenever a person digs a well in a public highway or a place which cannot be lawfully possessed, and places a stone or a slippery thing there, or does something which may cause injury or damage to a passer-by, he shall be liable to pay the Diyat or damages. But if the well is situated on his own property or at place which can be lawfully possessed by him, he shall not be liable to pay the Diyat or damages.

#### An Offence by an Intermediate Cause (tasbeeb)

#### Section 44

Whenever a person performs any of the above acts on property belonging to another with the permission of the master, and causes injury or damage to a third person, he shall not be liable to pay Diyat or any damages.

#### Section 45

Whenever an act is committed on a public highway in the interest of the passers-by which causes injury or damage to a person, in case the person doing the act has taken necessary (precautionary) measures which are usually considered to be intended to warn the passers-by, he shall not be liable to pay Diyat or any damages.

#### Section 46

Whenever a person performs any of the acts mentioned in Section 43 above in his own house, and invites to his house a blind person who is not aware of it due to his blindness or darkness, he shall be liable to pay the Diyat or damages. If, however, a person enters the house of the other without the permission of the house-owner before the performance of the above mentioned acts (i.e. the necessary precautionary measures) and the house-owner be ignorant of his entrance, he shall not be liable to pay any Diyat or damages.

#### Section 47

Whenever due to an act of God, such as a flood etc., any of the above-mentioned accidents takes place and causes injury or damage, no one shall be held liable (for them), although he may have been capable to avoid such accidents. If, however, flood, etc. brings something along, and a person puts it at a place similar to the first or even worse than that, he shall be liable to pay the Diyat or damages. Again, if he picks it up from the middle of the road and places it in a corner in the interest of the passers-by, he shall not be held liable to anything.

#### Section 48

Whenever a person performs any of the acts mentioned in Section 43 above in a property belonging to another by way of a trespass, and a third person who enters the property by way of a trespass receives some injury, the person committing the trespass (and doing an act mentioned in Section 43 shall be liable to pay the Diyat and (or) damages to the person who receives the injuries.

#### Section 49

Whenever a person places merchandise or means of transport on a public highway, and it causes damage to another, he shall be liable for it, except when it is in the interest of the passers-by that the articles be placed temporarily on the highway.

#### Section 50

(Illegible) passer-by he shall be liable for the payment of the Diyat and damages, except when an adult and sane passer-by deliberately steps on it.

#### Section 51

Whenever a person places something on his wall, and it collapses by way of an unforeseen accident on the public highway, and causes some damage (to a passer-by), he shall not be liable for the damage, except when he had placed it in a way that it would usually fall down.

#### Section 52

Whenever a down pipe, or balcony or any part of the house causes loss, damage or injury to a passer-by or a public highway, the owner of the house shall be liable for it. If, however, it was built in accordance with the law, and is without damage, and accidentally falls causing injury or damage to a passer-by, the owner of the house shall not be liable for it.

#### Section 53

Whenever a person builds a wall with a strong foundation on his own property or a property where it is lawful for him to build the wall, and it collapses as a result of an unforeseen accident, such as an earthquake, and causes damage to another, its owner shall not be liable for the damage. Similarly, if the person has built the wall on the side of his own property, so that if it falls it would naturally fall in his own property, but instead it accidentally falls on the other side and causes some injury or damage, its owner shall not at all be liable for it.

#### Section 54

Whenever a person builds a wall on his own property in a balanced manner without being inclined to one side, but gradually it becomes inclined to fall on the property of another, and if in fact the wall falls before its owner is able to repair it and causes injury or damage, its owner shall not at all be liable for it. If, however, he is able to repair it and it falls due to his negligence and causes some damage, its owner shall be held liable for the damage.

#### Section 55

Whenever a person makes the wall of another bend or incline to fall, and then the wall falls causing injury or damage to another, that person shall be liable for the damage.

#### Section 56

When a person carefully lights a fire on his own property, knowing that it will not spread to the property of another since it hasn't in the past, but accidentally it does spread to the property of another causing injury or damage, he shall not be liable for it.

#### Section 57

Whenever a person lights a fire on his own property and it spreads to the property of another, or he knows that it will spread to another's property because it has in the past, and as a result of its spreading injury or damage is done, he shall be liable for it, even though he may have needed the fire.

#### Section 58

Whenever a person lights a fire on his property, and that fire spreads to another place, he shall be liable to compensate for the loss or damage done, even if he has lit up the fire as much as he needed.

#### Section 59

Whenever a person lights a fire on another's property without permission, or on a public thoroughfare without being careful of the interests of the passer-by, and it causes loss or damage, he shall be liable to compensate the loss or damage, even though he may have not intended to cause any loss or damage.

Explanation. In cases where the person lighting the fire is held liable for the loss or damage, there should have been no thought given to the escape or safety of the persons suffering injury or loss.

#### Section 60

Whenever a person lights a fire, and another person throws property belonging to a third person into the fire and it is burned, the person throwing the property shall be liable for it and not the person lighting up the fire.

#### Section 61

The master of every animal, with knowledge of his animal's potential to attack or injure another, should take proper care of his animal, and if the animal causes loss or damage to another due to the carelessness or negligence of the master, its master shall be liable for it. However, should the master have no knowledge about the animal's potential to cause attack or loss to others, or has such knowledge but is unable to provide protection against it, and does not in any way fail to take care of the animal, he shall not be liable for the loss caused by the animal.

#### Section 62

Whenever an animal attacks another, and that person guards himself against the animal as much as necessary, and this defense causes death or injury to the animal, the person defending himself shall not be liable for it. So also if, by way of defense as much as is necessary, he keeps that animal away from attacking another person or his property honored by the defender, and his act may cause loss or injury to the animal, he shall not be liable for it.

Explanation: Whenever an animal causes loss or injury and the person defending themselves or their property puts up more than an absolutely necessary defense, the person causing it shall be liable for it.

### Section 63

When due to the negligence of the master, an animal attacks another animal and causing injury, its master shall be liable for the injury, and, if injury is caused to the animal attacking the other, no one shall be liable for it.

### Section 64

Whenever a person enters the house of another without his permission, and the dog of the house causes injury to that person, the owner of the house shall be liable for it, whether that dog was in the house at that time or entered that house later, or whether the owner had knowledge that the dog might cause injury to another or not.

### Section 65

If a person is riding an animal or walking with it holding its reins, he shall be liable for the damage caused by the animal with his head, neck or fore-legs, and not for the damage caused by its hind-legs, except when the animal becomes out of the control of the rider or the one holding the reins, even though the animal may not normally be rebellious. But if a person drives an animal from behind, it, he shall be liable for the damages caused by the animal.

### Section 66

Whenever a person halts an animal, he shall be liable for all the damages caused by that animal, whether with his head, or fore-legs or hind-legs.

### Section 67

Whenever a person hits an animal, and as a result of that hitting, that animal causes damage, the man hitting the animal shall be held liable for the damage.

## Section 68

If a person rides an animal, and another draws its reins from the front, or drives it from behind, and that animal causes damage with its head, or fore-legs or hind-legs, in case of the damage caused with the front part of its body, the rider and/or the person drawing the reins or the person driving it from behind shall be jointly liable for it, while in case of the damage caused by its hind-legs only the driver (or the person driving the animal from behind) shall be liable for it.

## Assembly of an Intermediate Cause and Direct Cause of Various Causes

## Section 69

Whenever two persons have a share in the commission of an offence, one by way of an intermediate cause and the other by way of a direct cause, even when the contribution of both is equal or the contribution of the person with direct cause is greater, only the person with direct cause shall be liable for it.

## Section 70

Whenever there is a contribution of two causes in the commission of an offence, one intermediate and the other direct, and the intermediate cause may have a greater share in the commission of the offence than the direct cause, only the intermediate cause for the commission of the offence shall be liable for it.

## Section 71

Whenever two persons share in the commission of an offence by way of an intermediate cause only, and not by way of a direct cause, the person who acted first shall be held liable for it, such as when one person digs a well and another person places a stumbling block on its bank and a passer-by fall into the well as a result of encountering the stumbling block, only the person who has placed the stumbling block shall be held liable, and there shall be no liability on the person digging the well.

Explanation. In the above case a person who is the transgressor shall be liable.

## Section 72

Whenever two persons together cause an injury or damage, they shall be equally liable for the damage.

## Section 73

Whenever due to the creation of a cause two persons collide with each other and are killed or injured due to the collision, the person responsible for the cause shall be held liable.

## Section 74

Whenever a person loses property or wealth in an effort to remove probable risk or loss to another as a result of the request of the other, no one shall be liable for it, except when the other has accepted the liability for his loss or damage.

## The Diyat of Limbs (or Parts of Human Body)

## Section 75

In case of an offence committed against the limb of another whose amount of Diyat has not been specified by the Shari'ah, the person committing the offence shall pay arsh or the fine.

## Section 76

Whenever a person causes the disappearance of the hair of the head or face of a man in a way that they do not grow again, he shall be liable for the payment of the full Diyat. In case the hair grows back again, he shall be liable to arsh with regard to the hair of the head, and in respect of the hair of the beard, he shall be liable to one-third of the full Diyat.



## Section 77

Whenever a person causes the disappearance of the hair of a woman's head in a manner that it will not grow again, he shall be liable to a woman's full Diyat. In case the hair can grow again, he shall be liable to her proper dower (mahr al-mithl), and there shall be no difference whether the hair is long or short.

Explanation. If the woman's proper dower exceeds the amount of her full Diyat, the payment shall be made only up to her full Diyat.

## Section 78

If part of the hair which has disappeared grows again and part of them does not, the amount of hair which does not grow shall be assessed in proportion to the hair of the whole head, and the payment of the Diyat shall be made in the same proportion.

## Section 79

The determination of whether the hair will or will not grow again rests with an expert. If a Diyat or arsh is paid according to the opinion of an expert, and subsequently the hair grows again, the surplus amount of the arsh shall be returned to the person committing the offence.

## Section 80

The Diyat for the total hair of the two eyebrows, when they do not grow again, shall be 500 Dinars, and 250 Dinars each, and that of part of each eyebrow shall be proportionate (to the quantity of the hair that do not grow). If subsequently the hair happens to grow again, there shall be the liability for the payment of the arsh. (Again), if part of the hair grows again and the other does not, with regard to the hair which has grown again, there shall be the liability for the payment of arsh, and Diyat shall be paid after due assessment of the area of hair which has not grown again.

## Section 81

Causing the disappearance of eyelashes and the hair of the eyelids entails liability for the payment of arsh, whether they grow again or not, or whether all of them disappear or only a part of them does.

#### Section 82

Causing disappearance of hair other than those mentioned (in the preceding sections) shall entail the liability for the payment of only arsh and not Diyat.

#### Section 83

Causing disappearance of the hair entails the liability for the payment of the Diyat or arsh when it results in the disappearance of the hair only, and not the loss of the skin or limb, etc., in which case only the Diyat of the affected limb, etc. shall be required to be paid.

#### The Diyat for the Eye

#### Section 84

Causing loss of both sound eyes shall entail the liability for the payment of full Diyat, while the Diyat for either of them alone shall be half of the full Diyat.

Explanation. All eyes with sight are equal in the application of the above law, although they may be different from one another in respect of their being weak, sick, nyctalopic (having night-blindness), or squinting.

#### Section 85

The Diyat for causing loss of an eye with a white blot in its dark portion which, is not an obstacle to sight, shall be full. If, however, the blot causes some difficulty in the sight, the amount of which can be assessed the Diyat shall be reduced in the same proportion. In case it obstructs the sight entirely, it (i.e., causing loss of such eye) shall entail the liability for the payment of an arsh and not a Diyat.

## Section 86

The Diyat for (causing loss of) the eye of a person who has one sound eye and another blind since his birth, or having another eye loose sight has been lost due to some disease or other non-criminal causes shall be full. But if the person has lost one of his eyes in consequence of the execution of a Qisas or any other offence, the Diyat for (causing loss of) shall (other sound) eye shall be half the Diyat.

## Section 87

If a person has one sound eye and the other blind, the Diyat for causing loss of the blind eye shall be one-third of the full Diyat, whether it had been blind since his birth or was lost in consequence of the commission of an offence.

## Section 88

The Diyat for causing the loss of all the four eyelids of both eyes shall be full Diyat, while that of causing the loss of the lower eyelids is half the Diyat.

## The Diyat for the Nose

## Section 89

The Diyat for cutting off all at once the entire nose or its soft part beneath the upper nose-pipe and the nose-bone shall be full, while that of part of the soft part of the nose shall be the Diyat in the same proportion.

## Section 90

Cutting off part of the nose bone after cutting the soft part of the nose shall entail the liability for a full Diyat and an arsh.

#### Section 91

Making the nose defective, breaking or burning it in a way that it cannot be repaired shall entail the liability for a full Diyat, but if it is repaired leaving no defect, it shall entail the liability for the payment of one hundred Dinars.

#### Section 92

Paralyzing the nose entails the liability for two-third of a Diyat, while cutting a paralyzed nose entails the liability for one-third of a full Diyat.

#### Section 93

Cutting either of the nostrils shall entail the liability for one-third of a Diyat, while causing holes in the nose in a manner that both the nostrils and the cartilage between the nostrils should be torn or perforated causing their complete loss, shall entail the liability for one-third of a full Diyat, and if they are repairable, it shall entail the liability for one-fifth of a Diyat.

#### The Diyat of the Ear

#### Section 94

Cutting off both ears shall entail the liability for a full Diyat, cutting off one is half the Diyat, while cutting off part of the ear entails the liability for the same amount of Diyat in proportion to the whole ear.

#### Section 95

Cutting off the ear lobe shall entail the liability for one-third of a Diyat, while cutting part of it shall entail the liability for the same amount of Diyat in the same proportion (to that of the whole ear).

#### Section 96

Tearing off the ear entails the liability for one-third of a Diyat.

#### Section 97

Paralyzing the ear entails the liability for two-thirds of a Diyat, while cutting off a paralyzed ear entails the liability of one-third of a Diyat.

Explanation 1. The above law applies equally to a sound hearing ear as well as deaf ear.

Explanation 2. Whenever an injury to an ear affects its power of hearing and damages it, or causes the expansion of the effect to the bone and fracturing it, for each there shall be the liability of a separate Diyat.

#### The Diyat for a Lip

#### Section 98

Cutting off both lips entirely entails the liability for a full Diyat, while cutting off one lip is half of the Diyat, and cutting part of a lip the liability for the same amount of Diyat in proportion to (that of) the whole lip.

#### Section 99

An offence causing the lips to contract, so they cannot cover the teeth, shall entail part of the Diyat to be determined by the judge.

#### Section 100

An offence which causing slackness in the lips so they do not move while laughing or any other such normal acts shall entail the liability for two-third of a full Diyat.

#### Section 101

Cutting off paralyzed and insensible lips entails the liability for one third of a Diyat.

#### Section 102

Splitting both the lips causing the teeth to be visible shall entail the liability for one-third of a full Diyat. If they are repaired, there shall be the liability for one-fifth of a full Diyat. Splitting a single lip causing the teeth to be visible shall entail the liability for one-third of a Diyat for a lip, and in case it is curable, there shall be the liability for one-fifth of the Diyat of a lip.

#### The Diyat of the Tongue

#### Section 103

Cutting off a sound tongue entirely or turning a sound man dumb by inflicting a blow on his brain, or a similar part of the body, shall entail the liability for a full Diyat, while cutting the whole tongue of a dumb person shall entail the liability for one-third of a full Diyat.

#### Section 104

Cutting off part of a dumb tongue shall entail the liability for the same amount of Diyat in proportion to that of the whole tongue, while the Diyat for cutting off part of a sound tongue shall be in proportion to the loss of the capacity to pronounce the alphabet.

#### Section 105

The amount of Diyat for the offence committed on the tongue, not causing the loss of the capacity to pronounce the alphabet but resulting in some defect in the tongue, shall be determined by the judge.

#### Section 106

When a person cuts off part of the tongue causing loss of the capacity to pronounce some of the alphabet, and another part of the tongue is cut off by another person causing the loss of the capacity to pronounce the rest of the alphabet, the Diyat (payable by each of the persons) shall be proportionate to the loss of the capacity to pronounce the alphabet (caused by the respective acts of the two persons).

#### Section 107

Cutting off the tongue of a child before he/she starts speaking shall entail the liability for (the payment of) full Diyat.

#### Section 108

Cutting off a child's tongue who has attained to the age of speaking but who does not speak, shall entail the liability for one-third of a Diyat. If subsequently it transpires that his tongue was sound and could speak, it shall entail the liability for a full Diyat, and the person committing the offence shall pay the balance.

#### Section 109

Whenever an offence causes dumbness in a person a full Diyat is charged from the person committing the offence, and if the tongue becomes sound, the Diyat shall be returned (to the person committing the former offence).

## The Diyat for a Tooth

### Section 110

Causing loss to all twenty eight teeth shall entail the liability for (illegible) Diyat, and it shall be distributed in the following manner:

1. The Diyat for (causing loss to) each of the fore-teeth including the fore-teeth, quadruplets and the canine-teeth one pair of each of which is up and one down, totaling twelve in all, shall be fifty Dinars, and that of all of them six (illegible).
2. The Diyat for causing the loss of each of the hind-teeth (which are there on all the four sides of the ends, up and down, each has one dahik and three dirs or molar teeth) totaling sixteen in all, shall be twenty-five Dinars, and that of all of them four hundred Dinars.

### Section 111

The extra teeth, of whatever name and in whatever manner growing, shall have no Diyat. If pulling them out causes some defect, its fine shall be determined by the judge. If no defect is caused, it is up to the judge to award the punishment of up to fifty lashes by way of Ta'zeer.

### Section 112

Whenever a person has less than twenty eight teeth, the Diyat (for causing loss to them) shall also be reduced in the same proportion, whether they are in a lesser number since birth or in consequence of a disease.

### Section 113

There shall be no difference between the teeth having various colors. If a tooth is blackened in consequence of an offence but does not fall, its Diyat shall be two-third of that tooth if it were



sound. The Diyat for a tooth which is already blackened shall be one-third of that tooth if it were sound.

#### Section 114

In case a tooth is cracked but not pulled down or lost, its monetary fine shall be determined by the judge.

#### Section 115

Breaking that part of a tooth which is visible with its root remaining intact shall entail the liability for a full Diyat of that tooth. If after the part of the tooth mentioned has been broken, a person pulls out the remaining part of the tooth from its root, its fine shall be determined by the judge, irrespective of whether the person pulling the remaining part of the tooth from its root is the same who had broken the visible part of the tooth or another.

#### Section 116

Pulling out the baby-tooth of a child in whose place the adult tooth does not grow shall entail the liability of a full Diyat of the tooth, but if the adult tooth does grow in place, the Diyat for the mild-tooth pulled shall be one camel.

#### Section 117

Pulling out a tooth entails the liability of a full Diyat, even though the same tooth is placed in its original place and it become as it was before.

#### Section 118

Whenever another tooth is fitted in the original place of the tooth pulled out and becomes like the original tooth, pulling out that new tooth shall entail the liability of a full Diyat.

## The Diyat for the Neck

### Section 119

Breaking the neck in a way that it becomes bent shall entail the liability of a full Diyat.

### Section 120

The fine for an offence which causes the neck to bend, as well as that of an offence which causes obstruction when swallowing food shall be determined by the judge.

### Section 121

When the effect of an offence is that the bent neck of a person as well as an obstruction in swallowing food disappears, there shall be no Diyat and only arsh shall be paid, even if afterwards the person experiences difficulty in keeping his neck straight or swallowing the food.

### Section 122

Causing loss of both the jaws entails the liability for a full Diyat, and the Diyat for (causing loss of) one jaw is 500 Dinars, while the Diyat for (causing loss of) part of one jaw is proportionate to the amount of area (affected). The Diyat for causing loss of one jaw and part of another is half the Diyat along with the amount of Diyat determined after due assessment of the area of the other jaw.

### Section 123

The Diyat for a jaw is separate from that of a tooth, and when the loss of a jaw and a tooth occur at the same time, a Diyat shall be charged for each separately.

#### Section 124

The fine for an offence causing some defect in the jaw, difficulty or defect in chewing shall be determined by the judge.

#### The Diyat for a Hand

#### Section 125

Causing loss of both hands to the joint and the wrist entails the liability for a full Diyat, while that of one is half, whether the victim is one-handed (due to accident or birth defect) or had enjoyed the use of both hands before the commission of the offence.

#### Section 126

Cutting off all the fingers of one hand, up to the wrist, entails the liability for the payment of 500 Dinars.

#### Section 127

The fine for cutting the palm of the hand which has been without fingers since the birth or had become so in consequence of an accident shall be determined by the judge.

#### Section 128

The Diyat for cutting the hand up to the elbow is 500 Dinars, whether it had a palm or not. Likewise, the Diyat for cutting the hand up to the shoulder is 500 Dinars, whether it has an elbow or not.

#### Section 129

The Diyat for cutting a hand with all its fingers, when more than the joint and wrist is cut or more than the elbow is cut shall be 500 Dinars with an addition to be determined by the judge keeping in view of the extra area (of the hand).

#### Section 130

If a person has double hands from his wrist, elbow or shoulder, the Diyat for (cutting) his real hand shall be 500 Dinars, while the fine for (cutting) the extra hand shall be determined by the judge. If a person cuts hands, (the real and the extra) he shall be liable for the Diyat of the real hand in addition to the fine for the extra one, whether he cuts them both together and separately.

Explanation\*. The determination as to which of the hands is real and which is the extra depends on the opinion of an expert.

#### Section 131

The Diyat for cutting all ten fingers or all ten toes shall be full, while the Diyat for each finger or toe is one-tenth of the full Diyat.

#### Section 132

The Diyat for cutting each finger shall be divided into the number of the knuckles of that finger, so that the Diyat for cutting each of the knuckles of the fingers other than the thumb shall be one-third of that of a whole finger, while for that of a thumb half of that of a whole thumb.

\*Understood, though not in the original Persian text. (Translator)

#### Section 133

The Diyat for cutting an extra finger shall be one-third of that of a real finger, while that of an extra knuckle one-third of that of a real knuckle.

#### Section 134

The Diyat for paralyzing a finger shall be two-thirds of that of a sound finger, while the Diyat for cutting a paralyzed finger shall be one-third of that of a sound finger.

#### The Diyat of a Nail

#### Section 135

The Diyat for pulling out a nail so it will not grow again, or if it grows is defective or black shape, shall be ten Dinars, but if it grows again in a sound and while shape the Diyat shall be five Dinars.

#### The Diyat for the Spinal Column

#### Section 136

The Diyat for breaking the spinal column shall be full, whether it is cured or not, or if after treatment it takes the shape of a bow and becomes curved, or if the man is unable to walk without the help of a stick, or if it results in the loss of his sexual power, or if in consequence the victim suffers from diabetes, or incontinence of urine. Likewise, the Diyat for an offence causing the back to bend or the loss of ability to sit or walk shall be full.

#### Section 137

When, after the fracture of the spinal column or the commission of an offence affecting the spinal column, treatment proves effective and no trace of the offence remains, the person who committed the offence shall pay (only) one hundred Dinars.

### Section 138

When breaking the of the back causes both legs to be paralyzed, there shall be full Diyat for breaking the back and two-third of a full Diyat for paralyzing the two legs.

The Diyat for the Medulla (Nukha)

### Section 139

Cutting the whole medulla incurs the liability for a whole Diyat, while the Diyat of cutting part of it shall be proportionate to the area.

### Section 140

Whenever cutting the medulla causes another limb to become defective, in case a Diyat is specified for that limb, its Diyat shall be added to that of the cutting of the medulla. In case it has no specified Diyat, its fine, determined by the judge, shall be added to the full Diyat of the medulla.

The Diyat for the Testacles

### Section 141

The Diyat for cutting both the testacies at once shall be full, while the Diyat for cutting the left testicle shall be two-third and that of the right one-third of the Diyat.

Explanation. There shall be no difference in the application of the above law between the cases of young or old, minor or adult, impotent or potent and such other persons.

### Section 142

The Diyat for rupturing both testicles shall be four hundred Dinars. If the rupture causes loss of the ability to walk, its Diyat shall be eight hundred Dinars.

The Diyat for a Foot

Section 143

Cutting both feet entirely, whose limit is the joint of the shin-bone, shall entail the liability for a full (illegible).

Section 144

The Diyat for cutting all ten toes shall be full, while that of each toe shall be one-tenth of the full Diyat. The Diyat of the smaller shall be divided into that of the three knuckles, while that of the big toe shall be divided into that of two knuckles.

The Diyat for the Ribs

Section 145

The Diyat for breaking every rib on the left side covering the heart shall be twenty-five Dinars, while that of all the right side shall be ten Dinars.

The Diyat for the Clavicle Bones

Section 146

Breaking the two clavicle bones (i.e. bones under the neck) shall entail the liability of a full Diyat, while breaking either one of them so as to make them either incurable or curable with a permanent defect shall be half of the full Diyat, but fully cured, its Diyat shall be forty Dinars.

## The Diyat for the Anus

### Section 147

Breaking the anus so as to cause loss of control of feces excretion shall entail the liability for a full Diyat. In case the victim is not able to control the emission of a fart, it shall entail the liability for a fine to be determined by the judge.

### Section 148

The blow to the joint of the testicles and the anus causing the loss of control of urine or excretion of the feces shall entail the liability for a full Diyat. The same Diyat will be incurred if the blow is inflicted on some other body part causing the loss of control of urine and excretion of the feces.

### Section 149

If a person kicks or in some other way causes the excretion of urine or feces, it shall entail the liability for payment of one third of the full Diyat.

### Section 150

Breaking the hymen of a girl with a finger, causing loss of control of urine, shall entail the liability for her proper power in addition to full Diyat of a woman.

## The Diyat for Bones

### Section 151



The Diyat for breaking the bone in a limb, shall be one-fifth of the Diyat specified. If the bone is cured in full, the Diyat for (breaking) it shall be one-fifth. The Diyat for crushing a bone shall be one-third of the Diyat of limb, and if it is totally cured with no defect, its Diyat shall be four-fifth of the Diyat for causing its separation.

#### Section 152

Causing the separation of the bone from a limb causing it to become useless shall entail liability for two-third of the Diyat of a limb. If it is cured without defect, its Diyat shall be four-fifth or the Diyat for causing its separation.

#### The Diyat for the Reason

#### Section 153

An offence causing the loss of reason shall entail the liability for a Diyat. If, however, it causes some damage to reason, it shall entail the liability for a fine.

#### Section 154

Causing loss or deficiency of reason shall not entail the liability for Qisas.

#### Section 155

Whenever in consequence of an offence, such as a blow to the brain breaking the head or cutting of hand, a person loses his sense, it shall entail the liability for a separate Diyat for each, and their Diyats shall not be unified into a single Diyat.

#### Section 156

Whenever a person loses his sense as a consequence of an offence, and he receives a full Diyat from the person committing the offence, then subsequently recovers his sense, the Diyat shall be returned (to the person committing the offence), and its fine shall be determined by the judge.

#### Section 157

The authority for determining the loss of, or defect in, the sense shall be a reliable expert. In case the experts have a difference of opinion, then the loss or defect is not established, and the word of the person committing the offence followed by his oath shall be given preference to the word of the victim.

#### The Diyat for the Sense of Hearing

#### Section 158

Causing the loss of the entire sense of hearing in both the ears shall entail the liability for a full Diyat, while that of a single ear half of the full Diyat irrespective of whether the hearing of one of them is stronger than the other or not.

#### Section 159

If a person has already lost the sense of hearing in one ear and then is hurt in such a way that he loses the hearing of the sound ear, the person shall entail the liability of half the Diyat.

#### Section 160

Whenever it is known that the sense of hearing shall not be regained, or an expert certifies that it shall not be regained, its Diyat shall be established. If, however, an expert hopes that the hearing shall be regained, but after a period of time, it is not regained, its Diyat shall be established. If the hearing is regained before the payment of the Diyat, the liability for the payment of an arsh (only) shall be established. If it is regained after the payment of the Diyat, the Diyat shall not be returned. If the victim of the offence dies before the receipt of the Diyat, the Diyat shall be duly established.

#### Section 161

When cutting both ears results in the loss of hearing of both ears, it shall entail the liability for two full Diyats, if cutting one ear causes the loss of entire hearing it shall entail the liability for one full and one half Diyats. If hearing is lost as a result of the commission of some other offence, it shall entail the liability of a Diyat for that offence as well as that for the loss of hearing.

#### Section 162

When an expert certifies that there has been no loss of hearing, but a defect has occurred obstructing hearing, it shall entail the liability for the Diyat of the loss of hearing.

#### Section 163

Whenever a child becomes dumb as a result of becoming deaf, the person committing the offence shall be liable to the Diyat for causing the loss of hearing and a fine to be determined by the judge for causing the dumbness.

#### Section 164

In case of difference between the victim and the person committing the offence, when the matter is not settled with the opinion of a reliable expert or a test, the victim shall receive the Diyat, provided he undergoes the process of Qasamah (i.e., making the required number of oaths).

#### The Diyat for the Sight

#### Section 165

Causing loss of sight in both the eyes entails the liability for a full Diyat, while that of one eye is half the Diyat.

Explanation. There is no difference in the application of the law above between an eye having a sharp sight or a squinting one, or the like.

#### Section 166

When as result of pulling out the eye-socket a person loses sight, its Diyat shall not be more than what is required for pulling out the eye-socket. But if as a result of the commission of another offence, such as breaking the head, the loss of sight is caused, it shall entail the liability for the Diyat of the said offence as well for the loss of sight.

#### Section 167

In case of difference between the person committing the offence and the victim, on the testimony of two male experts of reputed integrity or one male and two female experts of reputed integrity to the effect that the sight shall be regained, but when they fail to specify the period for its recovery, the Diyat shall be established. Likewise, if they specify a period for the recovery of the sight, and that period expires, but the sight is not regained, the Diyat shall be established.

When the victim dies before the end of the period, its Diyat shall be duly established. So also if another person pulls out the eye-socket, the Diyat for the loss of sight shall be established against the person committing the earlier offence.

When sight is recovered, and then another person pulls out that eye, the person committing the earlier offence shall be liable only for arsh.

#### Section 168

When a victim claims that the sight of both eyes has been lost or that of one of his eyes has become weak, after a test and comparison with the sight of other persons of his age or after comparison with the sight of another eye, the difference shall be paid to him.

#### Section 169

When a victim claims that his sight has been lost and no evidence of the experts is available, the judge shall ask him to undergo the process of Qasamah, and shall (illegible) the judgment in his favor.

Explanation. Qasamah, (or the required number of oaths) in this case shall be six oaths, whether the plaintiff along with another five persons witness takes an oath, or the plaintiff alone takes the oaths.

The Diyat for the Sense of Smell

Section 170

Causing the loss of the sense of smell of both the passages of the nose shall entail the liability for a full Diyat, while that of a single passage half a Diyat. Before the award of the judgment, the judge shall ask both the parties to reach conciliation.

Section 171

When in case of difference between the person committing the offence and the victim the loss of the sense of smell or its reduction is not proved by resorting to a (illegible) or referring the matter to two experts of reputed integrity, the judgment shall be given in favor of the plaintiff after undergoing the process of Qasamah (in accordance with the provision contained in the Explanation Section 167).

Section 172

When the sense of smell is regained before the payment of the Diyat, only a fine to be determined by the judge shall be paid. If the victim dies before the end of the waiting period for the recovery of the sense of smell, its Diyat shall be established.

Section 173

When as a result of cutting the nose, a person loses the sense of smell, it shall entail the liability for two Diyats. Likewise, when as a result of the commission of another offence a person loses the sense of smell, the Diyat for the offence shall be added to that of causing the loss of the sense of smell. If the Diyat for the offence is not specified, a fine to be determined by the judge shall be added to the Diyat for causing the loss of sense of smell.

#### The Diyat for the Sense of Taste

#### Section 174

The fine for causing the loss of the sense of taste shall be determined by the judge.

#### Section 175

When as a result of cutting the tongue a person loses the sense of taste, there shall be no liability for more than the Diyat for cutting off the tongue. If, however, the sense of taste is lost as a result of the commission of some other offence, the Diyat for that offence shall be added to the fine for causing the loss of the sense of taste.

#### Section 176

In case the sense of taste is regained, the Diyat shall be returned to the person who committed the offence.

#### Section 177

In case of a difference of opinion between the person committing the offence and the victim regarding the loss of the sense of taste or a deficiency in it is not settled by resorting to a test or referring the matter to two experts of reputed integrity, a judgment shall be given in favor of the person with whom the offence has been committed after he has undergone the process of Qasamah.

## The Diyat for Sound and Speech

### Section 178

Causing loss of sound entirely so that the person is unable to make it clearly shall entail the liability for a full Diyat, even though he is able to make a feeble and slow sound.

### Section 179

Causing the loss of the power of speech so the victim is unable to speak at all shall entail the liability for a full Diyat.

### Section 180

The fine for an offense causing the victim to be unable to make a sound clearly shall be determined by the judge.

### Section 181

The fine for an offence causing the loss of sound specifically the pronunciation of some of the alphabet should be determined keeping in mind the process of bringing about conciliation between the parties.

## The Diyat for Causing Diabetes and Incontinence of Urine

### Section 182

The Diyat for an offence causing diabetes and incontinence of urine will be determined in the following manner:

A- In case of its continuance every day and until the end of every day, there shall be a full Diyat.

B- In case of its continuance daily until half of the day, there shall be half of the Diyat.

C- In case of its continuance every day and until the dawn of the day there shall be (eligible)

Explanation. Whenever the diabetes or incontinence of urine continued for a few days and subsequently it was cured, its fine shall be determined by the judge.

### Section 183

In case of an offence causing the loss or deficiency in some of the gifts of nature, such as sleep or sense of touch, or the appearance of disease, and its Diyat has not already been specified, then its fine shall be determined by the judge.

### Section 184

The fine for the commission of the following offences shall be determined by the judge:

A- An offence causing the loss of seminal discharge.

B- An act causing loss of power of procreation and conception.

C- An act causing the loss of enjoyment of sexual intercourse.

### Section 185

An offence causing loss of the ability to perform sexual intercourse shall entail the liability for a full Diyat.



## The Diyat for Injury to Head and Face

### Section 186

The Diyat for injury to the head and the face shall be as follows:

1. For a Harisah, or a scratch on the skin without any flow of blood: one camel.
2. For a Damiyaah, or a scratch which penetrates into the skin and enters the flesh and results in the flow of blood, in a small or large quantity: two camels.
3. For a Mutalahimah, or an injury affecting a large quantity of...?

(No pages 107, 108 and 109)

### Section 191

An offence causing a change in the color of the skin of the head shall be punishable with a fine to be determined by the judge. If it causes inflammation and change in the color, its fine shall be added to the Diyat already mentioned (in the preceding section).

### Section 192

The Diyat for an offence resulting in a part of the body having a specified Diyat is paralyzed shall be two-third of the Diyat for that part. The Diyat for cutting a paralyzed part of the body shall be one-third of the Diyat for that part of the body.

### Section 193

When a victim has no guardian (wali), the Attorney-General shall act in the capacity of a guardian, and shall be charged with the duty of demanding the vindication of his right without pardoning (the offender).

#### Section 194

The Diyat for causing a miscarriage shall be as follows:

1. The Diyat for the sperm which has settled in the womb: twenty Dinars.
2. The Diyat for a clot ('alaqah) which has formed into blood: forty Dinars.
3. The Diyat for a shapeless lump (or tissue, mudghah) which has formed into flesh: sixty Dinars.
4. The Diyat for a fetus whose form of flesh and bones has been complete, but has no soul (or life): one hundred Dinars
5. The Diyat for a fetus whose form of flesh and bones has been complete, but has no soul (or life): one hundred Dinars.

Explanation. In the above stages, there is no difference (in the application of the law) between a male or female.

6. For a fetus in whom soul is produced (or who is animate), in case it is a male its Diyat shall be full, and if it is a female its Diyat shall be half of a full Diyat.

Whenever a miscarriage takes place as a consequence of killing the mother, the Diyat for the fetus, in whatever stage it may be, shall be added to the Diyat for (killing) the mother.

#### Section 196

When a woman causes miscarriage of the fetus by herself, she shall be liable to pay its Diyat, in whatever stage the fetus may be, and she shall not be entitled to have any share in the Diyat.

#### Section 197

When there are several fetuses in a single womb, a separate Diyat shall be payable for each of them.

#### Section 198

The Diyat for causing the loss of limbs of a fetus, or injuries to them shall be in proportion to the Diyat of the fetus in whatever stage it may be.

#### Section 199

The liability for the payment of the Diyat for miscarriage in case of intentional act or semblance of intentional act shall be on the offender, while in case of a manifest misadventure on his 'Aqilah (or close relatives), whether the fetus is animate or inanimate.

#### Section 200

There shall be no expiation (kaffarah :) for a miscarriage prior to the period the fetus becomes animate. There shall, however, be expiation as well as a full Diyat subsequent to its becoming animate.

The Diyat for an Offence committed against a Dead Person

#### Section 201

A - For cutting the head: one hundred Dinars

- For cutting either both hands or both feet: one hundred Dinars; for cutting one hand or one foot: fifty Dinars; for cutting one finger or one toe: ten Dinars; while cutting or making any other limb defective shall have the liability in the same proportion.

Explanation 1. There shall be no difference in the application of the above law whether the victim is a woman or a man, a minor or an adult.

Explanation 2. The Diyat mentioned in this section shall not be considered a property to be inherited by the heir (of the deceased), but shall be a personal property belonging to the deceased, out of which his/her debts shall be paid and it shall be expended on other charitable purposes.

The Diyat for an Offence against an Animal

## Section 202

Whenever a person without the permission of its master slaughters an animal whose meat is halal (or lawful for eating) and which is usually used as a food, in the manner provided by the Shari'ah (for slaughtering an animal), he shall be liable for the payment of the difference (in the cost) of a living and slaughtered animal, or the current price for the loss of the animal.

Explanation 1. The parts of the slaughtered animal which can be used, such as the wool, hair or coarse wool shall belong to the master of the animal and their value shall be deducted from the cost of the animal.

Explanation 2. The master of the animal shall have no right to return the slaughtered animal and positively demand another similar animal or its price.

Explanation 3. Whenever the slaughtered animal becomes entirely useless, it shall be treated as a dead animal.

### Section 203

Cutting or breaking any part of the body of an animal, should it remains alive, shall incur the liability for the payment of the difference between (the cost of) a sound and a defective animal: and should the animal die, it shall entail the liability for the payment of its price.

### Section 204

When an animal whose meat is forbidden to eat but which is allowed to be used otherwise by slaughtering according to the Shari'ah, is slaughtered according to the Shari'ah, the difference between the prices (of a living and a slaughtered animal) shall be paid (to its master), and the parts of its body which can be used shall belong to its master and their value shall be deducted from its price.

### Section 205

Slaughtering an animal, in the manner provided by Shari'ah, whose meat is lawful for eating but which is not usually eaten, such as a horse, shall be treated as killing it, and shall entail the liability for the payment of its full price.

### Section 206

The loss of things (or killing animals)\* which cannot lawfully be owned by a Muslim, such as a pig or wine, shall not incur any (financial) liability.

\*Understood. though not given in the original Persian text. (Translator)

The Diyat for Dogs

### Section 207

The Diyat for (killing) a dog shall be as follows:

1. A hunting dog, trained or untrained: forty Dirhams.
2. A sheep-dog: twenty Dirhams.
3. A watch-dog for guarding a house or a garden: twenty Dirhams.
4. A farm-dog (a dog for guarding the farms) : the produce of a hectare of land, such as wheat.

Explanation 1. Any dog other than the one mentioned above shall not lawfully be owned by a Muslim, and killing it shall not incur any (financial) liability.

Explanation 2. The amount for killing a dog shall not in any case exceed what has been provided as its Diyat (in the above section) and nothing (extra) shall be charged as the price of the dog.

#### Section 208

Whenever a dog is usurped, and is killed, but not by the usurper, the usurper shall (nevertheless) be liable for the payment of its price and not its Diyat. Whenever a defect or injury is caused to the dog, the usurper shall be liable for the payment of its arsh.

#### Section 209

An offence against a dog whose Diyat (for killing) is provided (by the law) shall entail the liability for the payment of an arsh, and it shall be paid in the same proportion to the Diyat.

(GENERAL)\*

\*Understood, though not given in the original Persian text. (Translator)

#### Section 210

In all the cases where an arsh has been provided in this law or the fixation of the damages has been left to the discretion of a judge, the judge shall fix the amount of Diyat or damages after due consideration of the amount of the full Diyat of a person (or animal)\*, the type and circumstances of the offence and the total amount of damage caused.

#### Section 211

All the laws which are repugnant to this Act (or Code) shall cease to be effective.

\*Understood, though not given in the original Persian text. (Translator)

#### GLOSSARY

Adil : A person of reputed integrity

'Alaqah : A clot which has formed into blood. (S. 194, IPC, Chapter 8).

Al-aqarah fa al-aqrab : Closer (relative) to be preferred to the remoter.

Amr bi'al-ma'ruf : Directing others to do what is good. (S.31, IPC. Chapter 8)

'Aqilah : Close relatives on the father's of father's and mother's side, such as the father, paternal grandfather, paternal uncle or his sons. (S. 12, IPC, Diyat Section).

Arsh : A fine to be determined by the judge where no Diyat is specified by Shari'ah.

Asnad-i-Khizaneh : Treasury bonds or documents.

Asnad-i-ta'ahhudawar : Documents duly guaranteed by a Bank.

Atfal-i-bizihkar : Juvenile offenders.

Az bayn bordan-i-bakarat-i-dokhtar: deflower a girl.

Bara'at : (Bond of) impunity.

Barg-e-scjell-e-kayfari : A criminal record (document).

Bayt al-mal : State Treasury, State Exchequer.

Baytar (Dampezhshk) : Veterinary physician or surgeon, veterinarian.

Bazpursi : Investigation, Inspection.

Dabt-i-amwal : Seizure of property.

Dadnameh-yi-qat'iy-i-mahkumiyat : A final order of conviction issued a court of law.

Dadsitan : Public Prosecutor.

D. -i-kull-i-kishwar : Attorney-General.



Dahik : Fore-teeth, teeth which become visible at the time of laughing.

Daman-i-mali : Financial liability, monetary compensation.

Damighah : Injury which breaks the pouch like thin skin containing the brain. (S. 180, IPC, Diyat Section).

Damiyah : A scratch which penetrates into the skin and enters the flesh and results in the flow of blood, in a small or large quantity. (S. 186, IPC, Diyat Section)

Dasiseh : Conspiracy, intrigue.

Dhimmi : A non-Muslim subject of a Muslim state.

Dirs (pl. Adras) : molar tooth.

Diwan-i-alii-i-kishwar : Supreme Court (of Iran).

Diyat (pl. Diyat) : Monetary compensation prescribed by the Shri'ah for an offence. (S. 10, IPC, Chapter 2) Money paid to a person against whom an offence is committed due to an offence against the life of body. (S.I, IPC, Diyat Section).

Fardan : Individually, alone.

Farib : Deceit, deception.

Gardan zadan : Beheading.

Gharamat :Fine.

Ghayr-i-muhsan : A man who is not a Muhsan (q.v.)

Ghayr-i-muhsanah : A woman who is not a muhsamah (q.v.)

Habs-i-abad : Imprisonment for life.

Hadd (pl. Huddod) : Punishment whose nature and amount has been prescribed by the Shari'ah (S.8, IPC, Chapter 2)

H-i-jald :: The Hadd of flogging.

Hakim-i-Shar' : Shari'at judge.

Hamasar-i-da'imi : A permanent spouse (husband or wife). Haqq Allah (pl. Huquq) : Duties of a Man towards Allah.

Haqq al-nas (pl. Huquq) : Duties of a man towards human beings.

Harsiah: A scratch on the skin without any flow of blood. (S.186, IPC, Diyat Section).

Hatk-i-hirz : Break into the guarded place (hirz.,q.v.).

Hazil : One doing something by way of a joke..

Hirz : A place where property is kept in order that it may be away from the sight of others and safe from being taken away. (S. 213, X , Explanation, IPC, Hudood and Qisas Act).

Hiss-i-bina'i : Sight.

H-buya'l : Sense of smelling.

H-chesha'l : Sense of taste.

H-i-shenova'i : Sense of hearing.

Hullahay-i-Yemen : Garments made of Yemenese cloth.

Iddah : The post-divorce period during which the woman is not legally allowed to marry another husband.

Ihsan : The state of being a muhsan or muhsanah (q.v.).

Ihtmal-i-'aqa'l : Rational or logical likelihood or probability.

Ijbar : Compulsion.

Ikhtilas : Embezzlement.

Ikrah - Coercion.

Itghay.i-mujazat : Annulment of sentence of punishment.

Iqdamat-i-taba'l : secondary measures.

I.-i-takmili : Supplementary measures.

I-i-ta'maini : Security m.

I.-i-tarbiyati : Reformatory.

Irtidad : Apostasy (from Islam).

Ishtirak dar Jinayat : Abetment to a crime or offence.

Istihadah : Excessive flow of menstrual blood.

Ja'ifah : Injury penetrating into interior of the body (S. 188-A, IPC, Diyat Section).

Ja'l : Forgery counterfeiting.

Jald : Flogging, stripes, lashes, whipping.

Jam'an : en masse, collectively

Jama'at ( = Gorooh) Gang, group part.

Jani : A criminal, an offender.

Janin : A fetus, an embryo.

Jarh : Injury

J.-i-'amd : willful or intentional injury.

J.-i-khata : An injury by mistake or misadventure.

J.-i-shibh-i-'amd. : Semblance of willful or intentional injury.

Khata : Mistake or misadventure.

K.-i-mahd : Sheer mistake or misadventure.

Khisarat : Loss.

Lawat(at) : Sodomy, sexual intercourse (of a male) with a male. (S. 139, IPC, Hudood and Qisas Act).

Li'an : Imprecation (subsequent to the disavowal of the parentage of one's child born to one's wife).

Lowth : Suspicion (of involvement in an offence).

Maharim-i-nasahi : Persons within the prohibited degrees (of marriage) due to consanguinity.

Mahdaur al-dam : One whose blood may be shed with impunity (for being sentenced to death).

Ma'mumah : Injury which penetrates into the (ammah, or) the pouch-like thin skin containing the brain (or menix, or dura mater) (S. 186, IPC, Diyat Section).

Man'-i-ta'qeeb : Staying of prosecution.

Maqdhub : A person subjected to Qadhif (q.v.)

Mash : Drawing wet fingers on the bisection of hair on the forehead and from the fingers of the feet to the ankles and back of the feet, as a part of ablution (wudu).

Maslub al-ikhtiyar : A person devoid of authority.

Mas'uliyat-i-kayfari : Penal liability.

Mawad-i-alkoliy-i-muskir : An alcoholic intoxicant.

M.-i-mukHaddir(ah) : Narcotics, drugs.

M.-i-munfajirah : Explosives.

Mithqal-i-Shar'i = 18 Nokhods : (each nokhod = approximately 1/5 gram). (S. 3, V, IPC, Diyat Section ).

Mowquf Shodan-i-ta'qeeb : Suspension of prosecution.

Mu'awin (at) dar jurm : Accessory to a crime.

Mubarra az mas'uliyat-i-kayfari: Exempt from penal liability.

Mubasharat : Committing a crime personally (and not through the agency of another).

Mubashir-i-jurm : A person committing an offence personally (without the agency of another).

Muddaa'alayh : Defendant.

Mudda'i : Plaintiff, claimant.

Mudghah : A shapeless lump which has formed into flesh. (S. 194, IPC, Diyat Section).

Mudihah : An injury affecting the whole flesh, penetrating through the thin skin covering the bone, and making the bone visible. (S. 186, IPC, Diyat Section).

Mufsid fi al ard : Every individual or group who lays out a plan for the overthrow of the Islamic regime and for this purpose supplies arms and explosives, and also one who, with full knowledge and free will, supplies them means, facilities or arms. (S. 199, IPC, Hudood and Qisas Act).

Every one who offers himself for one of the important posts in the coup d'etat government as a part of the plan for over-throwing the Islamic regime. (S. 200, ibid).

Muharib : Anyone who, in order to create alarm, harassment or disturb public freedom and security, takes up arms (S. 196, ibid).

An armed dacoit or a highway robber who with the help of arms disturbs the public and highway security. (S. 197, ibid).

Anyone who has information regarding the location of the group and in any way contributes to the Endeavour effectively by advancing the objectives of the organizations shall be treated as Muharib, although they may not be participating in any of their regular branches. (S. 198, ibid).

(Also see SS. 199 and 200 under Mufsid... above equally applicable to Muharib as well).

Muhsan : A man having a permanent wife whom he has sexually enjoyed and whom he may enjoy sexually any time he wants. (S. 100, IPC, Hudood and Qisas Act).

Muhsanah : A woman having a permanent husband by whom she has been enjoyed sexually and the woman always has the opportunity of sexual enjoyment with that husband. (S. 100, ibid).

Mujazat-i-ashad : Enhanced (or more rigorous) punishment.

Mujrim-i-hirfi'i : Professional or confirmed criminal.

Mumayyiz : discreet.

Munaqqilah : An injury which cannot be cured except by transplantation of the bone. (S. 186, IPC, Diyat Section).

Murtad : An apostate, one who apostasies from Islam..

Musadarah : Attachment, seizure of property, confiscation of p.

Musahaqah : Tribadism (lesbian act), a homosexual act between women by (rubbing) their sexual organs. (S. 157, IPC, Hudood and Qisas Act).

Mutalahimah : An injury affecting a large quantity of flesh, but not penetrating into the thin skin covering the bone. (S. 186,IPC, Diyat Section).

Nahy 'an al-munkar : Preventing others from doing what is wrong. (S. 31, IPC, Chapter 8).

Naqs : Defect, infirmity.

Neyrang : Magic, trickery, sorcery.

Nifas : Puerperal blood.

Nisab : The quantity, limit or number required by law.



Nokhod : Approximately equal to 1/5 gram.

Nutfah : The sperm (which has settled in the womb). (S. 194, IPC, Diyat Section).

Owtiya-i-dam (Pl. of wali . .) : Heirs to a person killed or murdered; persons entitled to receive the blood-money or execute Qisas.

Owraq-i-bahadar : Negotiable instruments.

Owraq-i-qardeh : Credit documents, documents of loan.

Qadhf : Calumny, false accusation (of adultery or sodomy), slander.

Qadhif: Slanderer.

Qanun-i-A'in-i-Dadrasiy-i-Kayfari: The Criminal Procedure Code.

Qasamah : Taking oath (up to the number required by law).

Qat'al-tariq : Highway robbery.

Qat'-i-yad : Amputation of hand.

Qatl : Murder, homicide.

Q.-i'amd : Willful murder, intentional murder.

Q.-i-khata : Homicide by misadventure or mistake.

Q.-i-k.-mahd : Homicide by sheer misadventure or mistake.

Q.-i-sabab : Homicide by an intermediate cause.

Q.-i-shibh-i-'amd : Manslaughter, semblance of willful murder.

Qawwadi : Panderism, uniting and bringing together two or more persons for Zina or sodomy. (S. 165, IPC, Hudood and Qisas Act).

Qayyim : Guardian, administrator.

Qisas : Retaliation, the punishment to which an offender is sentenced, and which is equivalent to his offence. (S. 9, IPC, Chapter 2).

Rais-i-Diwan-i-Ali(y-i-kishwar) : chief Justice of the Supreme Court.

Rajm : Stoning (a Zani or Zaniyah) to death

Reezesh-i-idrar : Incontinence of urine.

Ri'ayat-i-ghibath : Observance or regard of the interest.

R.g.-i-saghir va majnun : observance or the interest of a minor or a lunatic.

Ru'b : alarm, fright.

Sabab : An intermediate cause.

Sag-i-galleh : Sheep-dog.

S.-i-mazara'ah : Farm-dog, a dog for guarding the farms.

S.-i-nigehban-i-manzil va bagh : Watch-dog, a dog for guarding a house or garden.

S.-i-shikari : Hunting-dog.

Sahi : One laboring under some error or mistake.

Salas-i-bowl : Diabetes.

Serghat = Sirqat (=Sariqah) : Theft.

Shaki : Complainant.

Shareek-i-jurm : An abettor to a crime.

Silah-i-garm : Fire-arms.

S-i-sard : Arms other than fire-arms.

Simhaq : An injury affecting the whole flesh and penetrating into the thin skin covering the bone. (S. 186, IPC, Diyat Section).

Siqt-i-janin : Miscarriage, abortion.

Shuray-i-'Aliy-i-Qada'i : The Supreme Judicial Council.

Shuray-i-Nigehban : Council of Guardians (of the Constitution).

Ta'addud-i-jurm : Plurality of Offences.

Tab'eed : Transportation, exile, banishment.

Ta'deeb: Correctional punishment, chastisement.

Tafkheez : Masturbation through rubbing the male organ between the thighs or another. (S. 152, IPC, Huddod and Qisas Act).

Tahdeed : Threatening; threat.

Tajawuz : Trespass, transgression.

Takhfeef-i-mujazat : Remission in the sentence of punishment.

Takrar-i-jurm : Committing an offence again.

Ta'leeq-i-mujazat : Abeyance or suspension of execution of a sentence.

Tanbeeh-i-badani : Corporal chastisement or punishment.

Taqada-i-i'ada-i-dadrasi : Application for reopening or retrial (of a case).

Ta'zeer : Chastisement or punishment whose nature and amount has not been prescribed by the Shari'ah, and it has been left to the discretion of the judge. (S. 11, IPC, Chapter 2).

Tasbeeb : An intermediate cause,

Tashheer : Public disclosure, public proclamation of the convict on a donkey's back; public identification.

Ta'zeer bi al-qatl : Death penalty.

Tifl : One who has not attained to the legal age of puberty. (LS. 26, Ex. 1, IPC, Chapter 8).

Towbah : Repentance.

Towbeekh : Reprimand.

'Udhr-i-muwajjah : A due excuse.

'Udw : (pl. a'da') : A limb, a part of human body.

'U-i-zayid : A surplus or extra limb or part of the body.

'Uqoobat (pl: 'Uqoobat): Punishment:

Waliyy-i-dam : Heir to the person killed or murdered, a person entitled to receive the blood money or execute Qisas.

Waliyy-i-tift : Guardian of a child.

Warith-i-qanuni : A legal heir.

Zabt-i-amwal : (See under Dabi-i-Amwal).

Zahik : (See under Dahik).

Saman-i-mali : (See under Daman-i-mali).

Zan qahbeh : (An abuse), one whose wife is a whore.

Zimmi : (See under Dhimmit).

Zina : Unlawful sexual act.

Z.-i-muhsan va muhsanah-Adultery.Zinay-i-ghayr-i-muhsan va muhsanah : Fornication.

Z. ba maharim-i-nasabi : A Zina with close relatives within the prohibited degrees of marriage due to consanguinity, incest. (S. 99.A, IPC, Hudood and Qisas Act).

"The subjects do not remain virtuous except by the virtuousness of the rulers." (Nahj al Balaghah)  
Side by side with this we have the following:

"The rulers do not remain honest except by the uprightness of the subjects." (Nahj al Balaghah)

Following is an authority in the words of Imam (Khomeini):

"If a person is not able to arrange his livelihood, he cannot safeguard his faith. Do you think that the thief who climbs the walls in the dead of night in spite of all risk or the woman who sells her chastity is to be blamed? The living conditions are so bad that they give rise to all sorts of crimes and

corruption about which you read news daily in the news daily in the newspapers (Sahifa-i-Noor, Vol. I, pp. 65 and 66)

For example, it has been reported from (Imam) Abu Abdillah (Imam Jafar alSadiq) that he has said :  
:"If a man keeps some women (sisters or daughter, etc.) whom he does not give in marriage, and then they commit fornication, its liability shall be upon that man."

(Wasail, based on a report cited by Kulayni, author of al Kafi)