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Islamic Emirate of Afghanistan
Supreme Court
General Directorate of Secretariat
Editorial Department
Judicial Circular Section

No.2

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To: Directorates of Supreme Court, Divisions, Appeal Courts, and Primary Courts of the Islamic Emirate of Afghanistan

Assalam Alaikum Wa Rahmatullahi Wa Barakatuh (May Peace and Mercy and Blessings of Allah be Upon You):

On 3 December 2021, a meeting was held participated by the Supreme leader (Ameer ul Momineen), chief justice, and members of the supreme court and the following issues were discussed and some decisions were made:

First issue: In the past corrupt administration, a couple (husband and wife) were separated by a judicial decision. Now the husband wants his wife back, whereas the wife got married to someone else and has gotten children from the new husband. What would be the decision of the court in such a case?

Resolution: This issue must be referred to the nation's popular Ulema (religious scholars) for their decision, and after thorough research, it should be publicized.

Second Issue:

What should be done concerning the resolutions that were passed in the previous corrupt government, and now the acquiescent side is asking for its implementation of the resolution, and the resolutions that have passed the initial and appeal stages in the previous corrupt government but have not been finalized.

Resolution: on the first issue, if the resolutions of the previous corrupt government are not implemented, they should be referred to the Directorate of Iftah of the supreme court, so the issue should be investigated. If the resolution contradicts the sharia law, the primary court must reopen the case. However, any matter resolved according to sharia law must be enforced.

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On the second issue, if the issue has gone through the primary court, the appeal court must assess it, but if it has passed the appeal court, the cassation must assess it and decide about it as the other decisions.

On the third issue, where people who disagree with the final resolution about their cases and want their cases to be reviewed should be referred to?

Decision: Reconsideration and whatever related to judgment belong to His Majesty (the Amirul Mominin), and no one else shall do it.

Fourth Issue: What should be done about the tribal differences in the north on pastures that courts could not resolve?

Decision: this issue must be postponed until the formation of the council of Ulema. Once the council is formed, it should be investigated, and a suitable solution will be found.

Fifth Issue: What should be done about the pending documents?

Decision: This issue must also be postponed until the formation of the council of Ulema.

The above directives of the supreme court are issued to directorates of cassation, divisions, appeal, and primary courts of the Islamic Emirate of Afghanistan to take appropriate actions.

Regards

Mufti Abdurrashid Sayeed
Head of the Supreme Court Secretariat