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Islamic Emirate of Afghanistan

Bill of Courts

1440 AH

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Specifications of the bill:

Name: Bill of Courts

Issued By: High Administration of Courts

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Number of copies: 2000 (two thousand)

¹ [Translator's Comment: The year 1440 in the Islamic calendar corresponds to the period from approximately September 22, 2018, to September 10, 2019, in the Gregorian calendar.]

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In the name of Allah, the merciful and companionate

Praise be to Allah, who bestows grace and judges with justice. Indeed, my Lord is on a straight path; we praise Him, Glory be to Him, we thank Him, we repent to Him, and we seek His forgiveness, and He is the Forgiving, the Merciful. We bear witness that there is no god but Allah alone, without a partner. We bear witness that our Master and Prophet Muhammad is His servant and His Messenger (Peace be upon him, his family, and his companions) and blessing be upon Him, His Family, and His companions who judged with justice, and by it, they used to be just, and those who followed them and those who followed them in charity until the Day of Judgment.

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Preface:

The judicial power is the fundamental organ in the framework of the Islamic system since its work is considered more important than all other organs of the system; because the main goals and objectives of the Islamic system are the protection of life, property, intellectual property, dignity and all the rights that Allah almighty has given to the servants of Allah Almighty. These rights can only be respected when a sound and appropriate judicial system can grant the right to the right holder. The main goal and objective of establishing the Islamic Emirate are to enforce the divine law and ensure justice on the earth that belongs to the Almighty Allah. Therefore, the Islamic Emirate of Afghanistan has activated the judiciary power (courts) despite the difficult and inappropriate conditions in order to solve the legal and criminal problems and other cases of the servants of Allah Almighty in the light of the prophet Muhammad's (PBUH) brilliant Sharia law.

The Judicial power of the Islamic Emirate shall include the High Administration of Courts,² consisting of the Cassation Courts, Appellate Courts, Primary Courts, Special Military Courts, and the Ehtesab Courts.³ To better regulate the affairs of the courts, the administrative and legal proceedings of courts have already been developed that has the same validity as a detailed legal bill for the proceeding of the court's affairs. In addition to them, this brief bill was prepared and arranged in (11) chapters and (132) articles to solve the problems of the courts and their better management, and all the employees of the courts shall be obliged to comply with this bill in their respective departments.

² [Translator's Comment: This is an office that previously oversaw and managed the affairs of Taliban courts in areas under their influence prior to their rise to power. This office was similar to the "Supreme Court Office" used during the republic period.]

³ [Translator's Comment: "Ehtesab Courts" is a term used to describe a specialized court that was established to pass judgments on officials of the previous government.]

Chapter One Organization

Article 1:

The structure of the High Administration of Courts shall be as follows:

- A. The structure of the General Administration Office: Head of the administration office, deputies, administrative department, financial Department, research department, education department, and inspection department.
- B. The structure of the Cassation: head, members, research department, and administrative officer.
- C. The structure of the Civil Appellate Court: head of the court, members, and a clerk.
- D. The organization of the Primary Civil Court: head of the court, two members, one of whom also serves as a clerk.
- E. The structure of the Military Appellate Court: head of the court, two members, and a clerk.
- F. The structure of the Primary Military Court: head of the court, two members, and a clerk.
- G. The structure of Ehtesab Court: head of the court, two members, one of whom also serves as a clerk.

Chapter Two

General Provisions

Article 2:

The High Administration of Courts is a central office in the judicial system of the Islamic Emirate assigned to deal with all the responsibilities of judicial affairs.

Article 3:

The courts of the Islamic Emirate shall be independent in their judgments; no military or civil official shall have the right to interfere in the affairs of the courts and judges directly or indirectly.

Article 4:

All judges shall be obliged to consider the independence and transparency of the judiciary as an independent power of the Islamic system and to obtain full knowledge about the prestige and dignity of the judicial system from the Sharia point of view and try to perform this sacred duty in a better way.

Article-5

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All court officials must have piety, knowledge, management, tolerance, proper experience and good ethics, and respect for the Islamic values and the principles of the Islamic Emirate.

Article-6:

All judicial officials in the center and provinces should consider judicial work their primary job and not engage in other employment affecting judicial work.

Article 7:

Military officials, especially the deputy governor and the deputy district governor in all regions, shall be obliged to cooperate with the High Administration of Courts when necessary. They should also ensure the security of courts and judges, transportation and transfer of judges and files, summoning required individuals, detain and arrest individuals convicted to imprisonment, and enforce the final decisions.

It is necessary to enforce the decisions within a month. (If the enforcement of the decision is the authority of the governor or district governor, then it should be referred to the superior authority.

The finality of a decision: the finality comes when the convict is satisfied with the decision, or the decision is based on a confession or an acquittal, or the price of the object of claim is up to twenty thousand Afghanis or the period of imprisonment is up to one month, or the convict has admitted the finality of the decision before its issuance or does not seek appealing to another court, or the decision has been finalized by the Cassation Court.

Article-8:

Judges and relevant members of the courts shall be obliged to issue all decisions based on Hanafi jurisprudence, which includes referencing authentic books and jurisprudential details.

Article 9:

The courts of cassation, appellate, primary, military, and Ehtesab shall submit their quarterly activity to the High Administration of Courts (the primary courts must initially submit their reports through the relevant appellate court).

Article 10:

The head of the court cannot appoint his relatives, such as his son, father, brother, son-in-law, father-in-law, grandson, and other relatives, as a court clerk in his office.

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Article 11:

Since the principles of administrative and legal proceedings of Justice Courts have been prepared and approved by the leadership of the Islamic Emirate, all court officials, from the primary courts to the head of the High Administration of Courts, shall be obliged to observe the articles mentioned above and principles in their performances.

Article 12:

Since the judiciary is a sensitive entity, thus all court officials shall be obliged to strictly avoid engaging in suspicious relationships and transactions in which they face accusations or have a negative impact on the dignity of the judiciary system.

Article 13:

As much as the courts and judges observe the transparency of the judgments, they should also focus on enforcing their decisions. They should keep continued relations with local, civil, and military officials so that the judicial decisions do not remain unimplemented, instead actually resolve people's problems in practice.

Article 14:

Each file or decision sent from one court to another must be sent as a written attachment to a letter. Every letter must be recorded in the issuances book and given a special number. Also, the recipient court should provide a special number and record it in its entrance book.

Article 15:

In addition to the general issuance and entrance books, each department of the courts shall have a separate record or archives for the files based on their varieties, such as under-process files, finalized files, dismissed files, or approved files by cassation or appellate courts, etc.

Article 16:

When the prisoner's file is handed over to the judge, it must be submitted together with the handover of the prisoner; then, the prisoner will be detained by the judge's order. When the prisoner is handed over to the appellate court, in this case, the authority to detain the prisoner is with the appellate court, and it is the same with the cassation court.

Chapter Three

The responsibilities and powers of the High Administration of Courts

Article 17:

The High Administration of Courts has a Chief and two deputies, both of whom shall have all the powers delegated to them by the chief and can perform related matters.

Article 18:

The High Administration of Courts shall be responsible for managing and supervising the affairs of its subordinate courts.

Article 19:

The High Administration of Courts or its deputies shall participate in the sessions of the commissions of the Islamic Emirate.

Article 20:

The High Administration of Courts shall investigate specific cases and issues when necessary, or there is a complaint, and the judges are criticized.

Article 21:

Reviewing the investigation results, incorporating the results and cooperation among the courts, and rectifying the defects of required procedures shall also be the responsibilities of the High Administration of Courts.

Article 22:

The High Administration of Courts shall keep its respective departments in the center and provinces informed of the new decisions and directives of the Islamic Emirate that are needed in the area of justice so that these departments have more information about the policy.

Article 23:

Heads of cassation court, military and civil appellate courts, members of the cassation court, director of the Administration Office of Court, and head of the investigation court are changed and appointed through the recommendation of the High Administration of Courts and approval of the leadership of the Islamic Emirate and the authority to make decisions regarding the appointment, dismissal and change of other employees of these offices, except for the officials mentioned above, shall be the authority of the High Administration of Courts.

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Article 24:

The High Administration of Courts shall determine the working areas of the primary courts, appellate courts, military courts, and Ehtesab Courts in a detailed and clear manner so that these courts can operate in their areas of responsibility.

Article 25:

Recommendations to the leadership of the Islamic Emirate regarding the establishment of special courts or the deduction or addition of courts, when required, and taking actions in compliance with the guidance of the leadership shall be one of the duties of the High Administration of Courts.

Article 26:

The High Administration of Courts should conduct special seminars for the capacity building of judges and officials of courts and prepare a plan to train judicial officials as required.

Article 27:

The High Administration of Courts shall have the authority to increase or decrease the time of punishment in the discretionary punishment (Tazir) related decisions of other courts when required (in terms of life imprisonment, it shall be applicable after undergoing three trials, or at the time of appeal or cassation, or when the accused makes a complaint).

Article 28:

Collecting and assessing the quarterly reports of all courts and different statistical files and submitting them as a report to the leadership of the Islamic Emirate shall be one of the duties of the High Administration of Courts.

Article 29:

The High Administration of Courts shall dispatch the inspection teams when required to the courts to make detailed inspections regarding judicial, administrative, and financial affairs and assure themselves of the courts' procedures.

Article 30:

When necessary, interpreting the conflicting articles of the principles or bills, resolving disputes amongst courts, and determining the competent court shall be the responsibility of the High Administration of Courts.

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Article 31:

The High Administration of Courts shall review and respond to the inquiries received by this office. Also, if the cassation court has a grievance about any court or judge, the High Administration of Courts shall take appropriate actions after conducting a comprehensive inspection.

Article 32:

If the courts complain about the interference of military officials or other entities in their judicial works, the High Administration of Courts must share the subject matter with the competent authorities to resolve the problem.

Article 33:

The High Administration of Courts shall have all such powers that the courts' principles or other bills of the Islamic Emirate have determined for it.

Chapter Four Administrative and Financial Department

Article 34:

The High Administration of Courts shall have a general administrative officer within its organizational structure. Also, each department is called a department and must have a particular officer for its administrative affairs. (If a department does not have a specific administrative officer, a member of the department should take responsibility for the administrative matters, in addition to carrying out other duties, develop and activate an issuance and entrance system for the files, letters, and proposals that are received or issued from or by the court.)

Article 35:

The important duties of the High Administration of Courts shall include coordination of the internal affairs of the High Administration of Courts, registration of incoming letters, proposals, approvals, and rulings, arrangement of statistical details, management of appointment and dismissal of judges, members, and clerks of courts, monitoring of financial affairs, collection of quarterly reports from all courts, preparation of the total quarterly reports of the High Administration of Courts.

Article 36:

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The High Administration of Courts shall be responsible for all administrative affairs of the High Administration of Courts, taking care of the administrative matters of the relevant departments and managing the central administrative affairs.

Article 37:

The High Administration of Courts shall conduct central sessions, organize the sessions' agendas, invite members of the meetings, and also determine a location for sessions. The administrative officers in other departments shall also be responsible for performing the same tasks and duties.

Article 38:

The administrative officer shall be responsible for protecting and regularly transferring petition letters, files, decisions, and confidential and non-confidential documents. All these documents must be kept in a secure place so that no one can access or take possession of them except the official staff of the court. The head of the research department should protect and take care of its department's documents and papers.

Article 39:

the general administrative officer shall be obliged to record the information about the properties, items, documents, and pledges.

Article 40:

The High Administration of Courts, with the help of the financial department, shall request the previous budget used by the financial officials of subordinate directorates and reconcile the account with them.

Article 41:

The General Administration Office shall have a general financial officer. Also, all the independent departments of the courts should have an officer who should take responsibility for financial affairs and perform other duties.

Article 42:

The general financial duties of the High Administration of Courts include payment of salaries, recording them in the payroll registration book, recording miscellaneous expenses, taking cash from the financial authority of the Emirate, and submitting it to the relevant courts and offices.

Article 43:

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The financial officials shall be obliged to arrange the archives of all their accounts in writing, in which all monthly and annual expenses and relevant information should be included.

Article 44:

When the financial officers of the courts receive the budget from the finance officer of the Emirate, he should sign on the receipt. When they grant the budgets or salaries of courts, obtaining the signature of those who receive the budget shall be obligatory.

Article 45:

Both administrative and financial officials must jointly reconcile the accounts of all expenses. Both of them must sign these accounts and submit them to the central financial authority of the Emirate after obtaining the approval of the general director or his deputy.

Chapter Five

Duties and powers of the research department

Article 46:

The officials of the Research Department of the High Administration of Courts shall investigate the petitions and complaints submitted to the General Administration Office of the judiciary. Then, submit the complaints along with their brief remarks to the High Administration of Courts for provisions. They should record all the complaints and petitions regularly in their registration books and briefly mention directives and procedures.

Article 47:

The Research Department shall investigate those decisions issued by the Primary or appellate courts and complainants have appealed against them to the High Administration of Courts. The guidance and directives of the Chief Justice should be escalated to its respective authorities.

Article 48:

The employees of the research department should precisely study the inquiries, jurisprudential books, and principles. Then, provide necessary directions to the inquirer in accordance with the order of the Head of High Administration of Courts, and record the process in his special book.

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Article 49:

In case of a complaint, the Research Department should inspect the court files to see if the principles have been followed.

Chapter Six

Responsibilities and Powers of the educational Department

Article 50:

The officials of the Educational Department of the High Administration of Courts shall take turns conducting ten-day seminars for the judges of each term in the current situation to explain the importance of the judiciary, brief history of the judiciary system, judicial procedures, judicial ethics, ways how to obtain the solutions of problems from the books, articles of the principles and decrees of the Islamic Emirate.

Article 51:

the decision statement writing shall be explained to the participants of educational courses and training, and the decision statement writing shall be implemented practically on the various subject matters. At the end of the exam, each judge will be given a hypothetical lawsuit to write a decision about. Then, this decision will be carefully reviewed and considered by the administration members, and their shortcomings will be pointed out and explained to the judges in detail.

Article 52:

if possible, the Educational Department should conduct a six-month course to train judges so that the judges are trained in a new professional manner. If the participants are successful at the end of this course, they will be officially given a jurisprudence certificate by the Islamic Emirate, and they will be assigned duties as professional judges.

Responsibilities and Powers of the Cassation Department

Article 53:

The head of the Cassation Department shall be responsible for keeping close relations with the scholars of each field for the improvement and better management of the affairs, assuring them regarding the operation and transparency of the courts, and encouraging them to cooperate with the courts.

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Article 54:

The head of the Cassation Department shall be responsible for following up on all the affairs of his department, advising his subordinates for better management of affairs, escalating their problems, requests, and sound suggestions to the head of the High Administration of Courts to make the required decision about them.

Article 55:

The cassation department shall find the violation, confirmation, correctness, and incorrectness of decisions of the subordinate primary and appellate courts. It shall review and verify them within the scope of its basic powers and authorities.

Article 56:

If the decision of the primary and appellate courts is not acceptable, no decision should be taken on such issues referred to the cassation court for the first or second time. Instead, they should be first referred to the issuer court for correction. If the decision was still incorrect, then it should be escalated to a similar appellate court. If it was again incorrect, the cassation court should issue its own decision.

Article 57:

Transferring a lawsuit from one court to another is the authority of the cassation court. But the cassation court can transfer it when the lawsuit is not under process in any other court. If it is under process in any other court or other court-issued decision on the lawsuit, but it has been revoked by the cassation court, then the case will be transferred when the opposite parties are satisfied with the transfer.

Article 58:

The legal period for cassation shall be up to six months from the date of announcement by the appellate court. (This period belongs to the leadership of the Islamic Emirate). If the time for appealing has expired, but the time for cassation has still not expired, then the cassation court can process the issue, and the period of six months for cassation is limited to the case where the appellate court has issued the decision. If the appeal period has ended, the period shall be eight months after the date of the first announcement.

Note: if a case has been referred to the cassation court, and the time for both appeal and cassation has passed, it will be considered finalized if there is an administrative deficiency. However, if there is a Shariah-related deficiency, the case will be revoked and referred to the relevant court for further review.

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Article 59:

The cassation shall have the authority to object to those decisions that have not been objected to by the losing party.

Article 60:

The opposite parties cannot refer to cassation court in the current situation. Still, their file and the letter shall be sent by the governor or members of the provincial commission to the special representative of the cassation court (the Head of the cassation court can summon the parties by its appointed representative if necessary.)

Article 61:

The head of the cassation court is responsible for keeping close relations with provincial officials in his working area and trying their best to cooperate with each other in the knowledge and experiment-sharing fields.

Article 62:

When required, the head of the cassation court shall conduct sessions with the officials, such as the governor, the officials of the provincial commissions, and the district governor, to be informed of the enforcement of the finalized decisions.

Chapter Seven Military Courts

Article 63:

The military courts shall settle the lawsuits related to all the militaries and soldiers of the Islamic Emirate.

Article 64:

The leadership of the Islamic Emirate determines the establishment and scope of activities of military primary and appellate courts through the recommendation of the High Administration of Courts.

Article 65:

In case of a request for cassation, the decisions of primary and military appellate courts shall be referred to the cassation department.

Article 66:

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If the employees of the Islamic Emirate are defendants in any lawsuit, the decision shall be referred to the military court. (If he is a military soldier at the time of dispute). But, if both parties are satisfied with solving their dispute in the civil court, the civil court can also accept and decide on their case.

Article 67:

Military courts have all those powers delegated to them based on the principles. They can execute Islamic prescribed punishment (Hudud) and discretionary punishment (Tazir) as well (the decisions related to the Hudud, retaliation in kind (Qesas), life imprisonment, and orphans must be passed by the three courts, even though the convict is satisfied with).

Article 68:

The complainant can submit his petition directly to the military court, but if the complaint is submitted to the commission or governor, the commission or province officials should escalate it to the military court.

Article 69:

The circle commission shall be responsible for fully cooperating with the military court regarding the security, summoning, and detaining of prisoners, and it assigns a group to do this task. This group must protect the possessed objects of the prisoner from the date of the arrest until release.

Article 70:

Public officials and soldiers of the Emirate shall not have the right to intervene in the affairs of military courts, defend a criminal, or intercede to release a criminal. Similarly, the officials of military courts must also not allow unauthorized persons to interfere in their affairs.

Article 71:

The military court, like other courts, must make decisions and actions based on the principles and be in contact with the cassation court. In topics with complexity, the military court shall request legal and Shariah guidance from the cassation court.

Chapter Eight

The Responsibilities and Powers of the heads of provincial appellate courts

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Article 72:

The officials of the provincial courts shall carry out their related affairs in compliance with the instructions of the High Administration of Courts. They shall try to be aware of their respective duties, carry them out, and fulfill the responsibilities assigned to them in the best way.

Article 73:

For the progress of its related affairs, the head of the Appellate Court shall keep close relations with the general Jihadi officer⁴, religious scholars, and others to get their full cooperation that will lead to the further development of affairs.

Article 74:

The heads of provincial appellate courts must communicate with the High Administration of Courts and obtain guidance from this office regarding new criminal or political incidents, whereon no policy has been announced and explained yet by the Islamic Emirate.

Article 75:

The heads of the appellate court shall be obliged to keep all their issued decisions safe by the clerk or the administrative officer in a written form for the necessary use.

Article 76:

The head of the appellate court shall contact the relevant cassation court and inquire about this court to obtain required instructions concerning complex issues.

Article 77:

When a decision is referred to the appellate courts, they should first decide on it rather than reviewing the primary court's decision. If it is correct, approve it; if it is incorrect, they should send the case again to the same primary court to correct it if it is incorrect for the second time. In this case, the appellate court shall issue its verdict based on jurisdiction and authority.

Article 78:

⁴ [Translator's Comment: The General Jihadi Officer was a military commander responsible for both administrative and military duties in the areas under their control.]

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Proposals and complaints of primary courts are submitted by the appellate court to the High Administration of Courts, but the appellate and cassation courts can submit their recommendations directly to the High Administration of Courts.

Article 79:

The period for the appeal of civil and military courts shall be up to two months from the date of announcement of the primary court decision. The appellate court shall make both dispute parties and witnesses present at the time of the decision announcement. It should be written at the end of the decision that it was announced in the presence of the parties. The witnesses shall sign or put their fingers on the decision. The appellate court should ask each party whether they are satisfied with this decision or want cassation. It should be written about who wants cassation and who does not want cassation. A letter of appeal should be given to the appellate along with the appealing date written on the letter.

Article 80:

The convict must be present at the military and civil courts directly or be presented by the responsible governor, the provincial commission officer, and the deputy district governor according to the rules of the Islamic Emirate.

Article 81:

The provisions mentioned in articles 33 and 214 of the Administrative Principles must be observed in the appealing and summoning letter. In case of non-compliance with these rules, the summon and an appeal letter must be returned to correct their defects and reviewed again.

Article 82:

After submitting the appealing petition, the appellant shall be obliged to submit the objections, appeal statement, and the reasons along with the petition letter within ten days to the appellate court.

Article 83:

The heads of civil and military appellate courts shall be obligated to conduct consultative meetings with the officials of their respective primary courts at an appropriate time, define their duties, explain the policy of the Islamic Emirate and the directives of the Supreme Court for them, follow up their works, and try to correct the deficiencies of their activities, and if the work is not rectified, they should inform the High Administration of Courts.

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Chapter Nine

Responsibilities and powers of Ehtesab Courts

Article 84:

The organization of Ehtesab Court: one judge, two members as adjudicators), one of whom also serves as a clerk.

Article 85:

When the employees of the Intelligence Department of the Islamic Emirate arrest the supporters, military soldiers, spies, and other government suspects, their case should be referred to the Ehtesab Court.

Article 86:

The Court of Ehtesab shall be considered the primary court, its appellate court is regarded as a provincial appellate court, and its cassation court is the cassation court of provinces.

Article 87:

The decision of the Ehtesab Court is considered final for one month and does not require any further appeal or cassation. However, if the captive is sentenced to more than one month, they should be sent to the appellate court. If the appellate court approves their detention, then the conviction can be enforced for up to six months. If the period of detention is longer than six months, the case must be escalated to the cassation court.

Article 88:

The decision of the Ehtesab Court should be in written form as of the decisions of other courts; only the spoken form shall not be sufficient.

Article 89:

The principles of decision-making should be observed in the decision of the Ehtesab Court. It means that the entrance and issuance date, complete specifications, reasons for proving the crime, jurisprudential details, and other things that are required to be observed in the Sharia-based decision should all be included in the decision.

Article 90:

The Ehtesab judge shall investigate the captive and should not rely on the investigation of the intelligence officers. If the intelligence officers have done the investigation, the file should be handed over to the court (the judge should not make

his judgment based on the confession or testimony the captive has completed before the intelligence authorities, but he should hear the confession or testimony of the captive.

Article 91:

Detaining captives is the responsibility of the Ehtesab Court. When the case is referred to the appellate court, then the custody of the captive is at the discretion of the appellate court. The same process is followed with the cassation court.

Article 92:

The Ehtesab judge should not postpone the decision, if possible, issue the decision within fifteen days.

Article 93:

The issue should be referred to the Ehtesab Court through a letter from the intelligence officer or the provincial official.

Article 94:

The proof of the crime must be done in one of the following four ways that are included in the Emirate bill:

- A. The accused confesses to espionage.
- B. Two witnesses testify on the accused's espionage, through which the judge gets assured.
- C. Circumstantial evidence, such as special spying tools and devices used for espionage, spies used for spying, and other indicators, may raise suspicion. However, not everyone can assess the strength and weaknesses of circumstantial evidence. If a court is present, the judge should be responsible for examining the circumstantial evidence. In the absence of a court, a professional and discreet individual should assess the circumstantial evidence. This person should be knowledgeable, pious, and able to evaluate the evidence's strengths and weaknesses. If the circumstantial evidence is weak, then the discretionary punishment (Tazir) should be reduced, and if the circumstantial evidence is strong, the limit of discretionary penalty (Tazir) should be made harder, equal to the strength of circumstantial evidence. If the evidence is strong enough to make it certain, then if the Imam, deputy imam, or the judge sees it expedient to kill him, he can kill him.
- D. Just person (Khabar Adl): just person is someone who is very just, not fanatic, avoids the great sins, and does not persist on the minor ones.

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Article 95:

The ehtesab judge should get information about his prisoners from time to time and be aware of their conditions so that they are not tortured unnecessarily.

Article 96:

If the officials of Ehtesab Court are objected in any case, the appellate court, cassation court, or the High Administration of Courts shall be requested to provide their guidance in this regard.

Chapter Ten
Responsibilities and powers of primary civil courts

Article 97:

The head of the primary court in related districts and municipalities shall be responsible for judicial affairs.

Article 98:

Except for the matters assigned to military and Ehtesab Courts, the primary civil courts have the authority to make a judgment overall commercial and criminal lawsuits, and the decisions of the primary courts about the legal issues where the price of the subject of the claim is more than 20,000 afghanis and in criminal cases where the period of imprisonment does not exceed one month shall be considered final and should be enforced.

Article 99:

In cases where the losing party is not satisfied with issues that can be appealed and intends to file an appeal, such cases shall be referred for appeal.

Article 100:

Primary courts can accept the cases directly and indirectly.

Article 101:

Each primary court must only accept lawsuits related to its jurisdiction. The cases related to a residential area of the defendant should be referred to the primary court of the same area. But if the case is associated with a passenger or a stateless person in an area or if the defendant has settled far from his residential area, the issues will be referred to the court of the same area.

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Article 102:

For issues that can be appealed or referred to the cassation court, the primary courts should not expropriate the subject of the claim from the possession of the defendant until the case is not finalized by the cassation court. Also, the decisions on the issues that can be referred to cassation should only be enforced once the decision is finalized by the cassation court.

Article 103

if any issue has been delayed for fifteen years without any Shariah excuses such as minority, insanity, absenteeism, or if the defendant is a usurper/unlawful possessor, and the claimant has not pursued the case without any excuse, such a lawsuit should not be accepted. Of course, the 14 years of communist rule, 5 years of Rabbani's rule, and the first 5 years of American occupation are excluded. Apart from this, fifteen years of delay is valid for not accepting the claims.

Article 104:

In cases where issues cannot be heard, the primary court must issue a non-heard decision. If the claimant requests an appeal or cassation, they should not be prevented from doing so until they have obtained certainty.

Article 105:

The lawsuits to be closed are based on the ten-clause decree of the Islamic Emirate issued on 20/ 4 /1434 AH; the primary court must record such lawsuits in its entrance book. In accordance with the ten-clause decree, each article's lawsuit should be closed based on its respective provisions. It is important to note that if the decision regarding the case statement is not acceptable to the claimant, they should be allowed to appeal or file for cassation without any impediments.

Article 106:

The subject of the claim must remain in the defendant's possession in the closed cases, and he must be allowed to have exploitation possessions such as farming or residing. The defendant must be prohibited from proprietorship-based property possessions, such as selling, donating, building, and digging wells. Also, both parties should be prevented from possessing non-possessed properties.

Article 107:

The primary court must announce its ruling in the presence of the parties, and the announcement witnesses must also be present. At the end of the decision, it must be

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written that the ruling was announced in the presence of the parties. It must be told to the opposite parties whether they are satisfied with the court's order or if one party is seeking an appeal. The consent of the satisfied party should be written, and his finger should be placed. Also, the appeal of the appellant should be noted, and he should be provided with the appeal letter.

Article 108:

Since the judicial decisions are obligatory to be enforced from the Shariah point of view, therefore, the officials of primary courts and other courts should have close relations and bilateral cooperation with the local Jihadi officials so that the judicial decisions are enforced correctly by the executive power, and thus, the prestige and reputation of the judiciary is also guaranteed.

Chapter Eleven General Instructions

Article 109:

Judges or clerks of a court must be fully skilled in writing decisions or judicial rulings. The responsibility for writing the decision in every court must be assigned to a person who has sufficient skills and experience in this field.

Article 110:

Every decision must be issued based on numerical order, and both the general and special numbers must be included in the decision as follows: G () S ().

Article 111:

It must be written in the decision whether the claimant and the defendant are acting on their behalf as a representative, executor, or guardian.

Article 112 :

It is necessary to include the number of the power of attorney or letter of execution in the decision.

Article 113:

It is necessary to write the parties' complete personal details and capacity in the decision.

Article 114:

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The indictment and the claimant's expressions shall be included in the decision.

Article 115:

The defendant's answer should be written after verifying the correctness of the claim.

Article 116:

In the case of confession, the confession statement must be written without any addition or deduction.

Article 117:

In case of denial, the denial statement and request of witnesses from the claimant must be written.

Article 118:

The personal details and the same words of testimony of each witness should be mentioned in the decision without any addition or deduction.

Article 119:

The in-camera and open purification of witnesses should be carried out and mentioned in the decision.

Article 120:

When the claimant is unable to present the witnesses, taking the oath is passed on to the defendant at the request of the claimant. The type of the oath and its words must be mentioned in the decision.

Article 121:

In case of rejection, the proof of rejection and the reasons to prove it must be included in the decision.

Article 122:

A jurisprudential source or an article on the Emirate's Principles must be referenced in the ruling.

Article 123:

The ruling must be clear, and the words of the verdict must be written, whether it is a dismissal judgment or obligatory.

Article 124:

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It should be written that the ruling has been made really or apparently in the presence of the parties.

Article 125:

Two supporting witnesses must be written in the decision.

Article 126:

The court's seal must be placed on the decision, and the members of the court must sign it.

Article 127:

The original copy of the decision shall be given to the winning party. One copy shall be handed over to the losing party, and a copy shall be kept in the court.

Article 128:

In the case of the absolute ownership lawsuit, the possession witnesses and their words of testimony must be mentioned.

Article 129:

In the case of usurpation or causal ownership, confirmation (confession of possession by the defendant and its acknowledgment by the plaintiff) is enough. But, if the claimant claims the price, this can also be applied against the non-possessed property. If he is claiming the property, then his claim against the non-possessed property will not be correct.

Article 130:

The reason for acceptance or rejection must be written, and the challenging (Jarh) or no challenging of the party for whom the witness is made should be written.

Article 131:

In order to prove the rejection, the defendant must present his reasons. If he has no reasons, then the claimant will be asked for the reasons. If he confesses, the rejection is proved; if he denies it, he will be dealt with as a denier.

Article 132:

The judge is responsible for including their details in the decision. If it is not a problem, they should also note that they were the incumbent judge at the time of the decision and mention where the judgment was made.

End